

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Orangeburg County

Edgar W. Dickson, Circuit Court Judge

RECEIVED

MAY - 2 2012

S.C. Supreme Court

ORIGINAL

JOHN ALLEN RANDOLPH, JR.,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

DAYNE C. PHILLIPS
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARY S. WILLIAMS
Assistant Attorney General
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ATTORNEYS FOR RESPONDENT

INDEX

INDEXi

LETTER FROM COURT REPORTER1

APPLICATION FOR POST-CONVICTION RELIEF2

RETURN9

POST-CONVICTION RELIEF HEARING TRANSCRIPT14

ORDER OF DISMISSAL75

CLERK OF COURT RECORDS82

HARRY A. WALKER
COURT REPORTER, FIRST JUDICIAL CIRCUIT
P. O. BOX 127
ROWESVILLE, SOUTH CAROLINA 29133

SEPTEMBER 24, 2010

AUGHTRY E. K. RANDALL
LEGAL ASSISTANT
OFFICE OF ATTORNEY GENERAL
P. O. BOX 11549
COLUMBIA, S. C. 29211-1549

RE: TRANSCRIPT OF RECORD

JOHN ALLEN RANDOLPH JR., 338722 VS. STATE OF S. C.

CASE NO. 2009-GS-38-0766 AND 0767

DEAR AUGHTRY:

I AM IN RECEIPT OF YOUR LETTER OF JULY 6, 2010,
REQUESTING THE GUILTY PLEA TRANSCRIPT IN THE ABOVE CASE.

I HAVE BEEN SEARCHING FOR THIS FILE SINCE I RECEIVED YOUR
REQUEST. HOWEVER, AFTER EXTENSIVE SEARCH I AM UNABLE TO LOCATE MY
RECORDS IN THIS MATTER. THEREFORE, I CANNOT PROVIDE YOU WITH THIS
TRANSCRIPT.

SINCERELY,

Harry A. Walker
HARRY A. WALKER

cc: DESIREE R. ALLEN
COURT ADMINISTRATION

FORM 5

2010-CP-38-00932

STATE OF SOUTH CAROLINA)

County of Orangeburg)

John Allen RANDOLPH Jr.)

Full name and prison number (if any) of Applicant)
#338722)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

APPLICATION FOR
POST-CONVICTION RELIEF

2010 JUN 29 10:03
CLERK OF COURT
ORANGEBURG COUNTY, SC

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Mac Dougall Correctional Inst.
1516 Old Gilliard Rd. Ridgeville, SC 29472
2. Name and location of Court which imposed sentence Orangeburg
County Courthouse
3. Name(s) of co-defendant(s) (if any) Melvin Lee Sweet Jr.
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

- (a) _____
- (b) _____

ATTEST: TRUE COPY
Wanda B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

(a) January - 4 - 2010

(b) 8 years violent

(c) _____

6. Check whether a finding of guilty was made:

after a plea of guilty _____

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. N/A

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. N/A

ii. _____

iii. _____

(c) the date of each such result:

i. N/A

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. N/A

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) Was not made aware of Right

(b) to Pursue filing a direct appeal

(c) by Counsel: Therefore appeal was not filed. (Violating S.C.R.A.P. R. 203(b)(2))

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective assistance of Counsel
- (b) Denial of Right to file a Direct appeal after Imposit of time sentence
- (c) Violation of due Process of Law with the process of Criminal Indictment

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Counsel failed to have underwent a thorough investigation on the appelants case
- (b) Counsel failed to explain appeal Process
- (c) Due Process Violation: appellatnt did not recieve all of Rule 5 motion of discovery

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 - i. None
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. None
 - ii. _____
 - iii. _____
 - iv. _____

(c) the disposition thereof:

- i. None
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. None
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. None
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. None
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. None
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) None of the grounds raised here have been
- (b) presented Based upon the fact that all grounds
- (c) raised here are newly discovered evidence.

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? Yes
- (b) your trial, if any? No
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? No
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. Carl B. Grant
 - ii. 960 Doyle St. P.O. BOX 1203
Orangeburg, SC 29116
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Preliminary hearing
 - ii. Plea and Sentencing
 - iii. Plea and Sentencing Phrase

19. State clearly the relief you seek in filing this application:

Petitioner Request vacate of Sentence
imposed and/or Modification of Sentence
time Reduction

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

County of Orangeburg)

VERIFICATION

I, JOHN ALLEN RANDOLPH JR., being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

John Randolph

SWORN to and subscribed before me this 25 day of JULY 2010.

Burnette Stevens (L.S.)
Notary Public

My Commission Expires: ~~My Commission Expires~~ 4/24/2016

ATTEST: TRUE COPY
Wanda B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

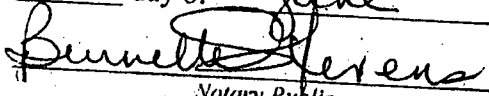
APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, John Allen Randolph Sr., hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

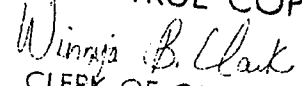
- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.


Applicant

SWORN or affirmed to and subscribed before me this
25 day of June, 2010.


Notary Public

My Commission Expires ~~My Commission Expires~~ 4/24/2016

ATTEST: TRUE COPY

CLERK OF COURT
ORANGEBURG COUNTY, SC
Revised 3/2003

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ORANGEBURG)
)
)
)
 John Allen Randolph, Jr., #338722,)
)
)
 Applicant,)
)
)
 v.)
)
 State of South Carolina,)
)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

2010-CP-38-0932

RETURN
(Appointment of Counsel Requested)

The Respondent, making its Return to the application for post conviction relief (PCR) filed June 29, 2010, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court. The Applicant was indicted for Trafficking in Cocaine (100-200 grams) (2009-GS-38-0767), Unlawful Carrying of Pistol (2009-GS-38-0768), Trafficking in Methamphetamine or Cocaine Base (10-28 grams) (2009-GS-38-0766), Possession with Intent to Distribute Marijuana (2009-GS-38-0770). Carl Grant, Esquire, represented him. On January 4, 2010, the Applicant pled guilty. He was sentenced by the Honorable James C. Williams, Jr. to eight (8) years for Trafficking in Cocaine (28-100 grams), to one (1) year for Unlawful Carrying of a Pistol, to eight (8) years for Trafficking in Cocaine Base (10-

28 grams), and to five (5) years for Possession With Intent to Distribute Marijuana.¹ Applicant did not appeal his conviction and sentence.

Attached herewith and incorporated herein are the records of the Orangeburg County Clerk of Court regarding the subject conviction and the Applicant's records from the South Carolina Department of Corrections. The court reporter has stated that the guilty plea transcript is unavailable. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. "Counsel failed to [undergo] a thorough investigation on the appellant's case."
2. "Denial of right to direct appeal after imposition of time sentence."
 - a. "Counsel failed to explain appeal process."
3. "Violation of due process of law with process of criminal indictment."
 - a. "Due process Violation: appellant did not receive all of Rule 5 motion of discovery."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

For purposes of this Return, Respondent interprets all allegations to be allegations of ineffective assistance of counsel. In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

¹ According to Clerk's records, four (4) additional charges of PWID within Proximity of a School or Park, one charge of Possession of Cocaine, and a charge of Unlawful Pistol were dismissed pursuant to the plea.

Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests

an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983):

IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held on the issue of ineffective assistance of counsel.


Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARY S. WILLIAMS
Assistant Attorney General

By: 
ATTORNEY'S FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

Feb. 4, 20 11.

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG

FIRST JUDICIAL CIRCUIT

JOHN RANDOLPH, JR.,

CASE NO. 2010-CP-38-00932

APPLICANT

)
) POST CONVICTION
) RELIEF HEARING
) TRANSCRIPT OF RECORD

versus

)
) DATE:

STATE OF SOUTH CAROLINA,

)
) MARCH 8, 2011

DEFENDANT

BEFORE:

HONORABLE EDGAR W. DICKSON, PRESIDING JUDGE.

APPEARANCES:

JAMES B. JACKSON, ESQUIRE

ATTORNEY AT LAW

FOR THE APPLICANT

MARY WILLIAMS, ESQUIRE

ASSISTANT ATTORNEY GENERAL

FOR THE STATE

HARRY A. WALKER (MRS.)
COURT REPORTER, FIRST JUDICIAL CIRCUIT
POST OFFICE BOX 127
ROWESVILLE, SOUTH CAROLINA 29133

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RE CROSS</u>
KELLEY BURBAGE				
MS. BURBAGE	5			
MR. JACKSON		14		
JOHN RANDOLPH, JR.				
MR. JACKSON	26			
MS. WILLIAMS		44		
CARL GRANT				
MR. JACKSON	46			
MS. WILLIAMS		57		

PAGE

ARGUMENT BY MR. JACKSON	58
ARGUMENT BY MS. WILLIAMS	59

E X H I B I T S

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
NONE			

1 DATE:

2 March 8, 2011

3 THE COURT: Yes, ma'am. Hey, Ms. Williams.

4 MS. WILLIAMS: Your Honor, this John Randolph, 2010-CP-
5 38-0932. I'll give you a little background about the case.
6 We are going to have to reconstruct, or attempt to reconstruct
7 what we can of the guilty plea in this matter. I have a
8 certified letter from the court reporter, a copy of that is in
9 your packet, that she has been unable to locate the records in
10 this matter and, therefore, we do not have a transcript
11 available.

12 In terms of the procedural history of Mr. Randolph's
13 case, he was charged with several drug charges, trafficking in
14 cocaine, unlawful carrying of a pistol, trafficking in meth
15 amphetamine or cocaine base, possession with intent to
16 distribute marijuana, and there were several, possession with
17 intent to distribute within proximity of a park charges that
18 were not pressed. And he was represented by Carl Grant in
19 those matters, so he is here today to pursue his claim of
20 ineffective assistance of counsel, but at the Court's pleasure
21 we would like to call Ms. Burbage, who was the Solicitor, and
22 Mr. Grant to just ask questions about anything that they may
23 recall about what transpired in the plea, and then we'll go on
24 to the merits of the hearing.

25 THE COURT: Alright.

1 MS. WILLIAMS: Alright, and so we'll call Ms. Burbage.

2 THE COURT: Ms. Wilson, are you going to swear them or do
3 you want me to?

4 (Whereupon, Kelley Burbage
5 is duly sworn.)

6 MR. JACKSON: Your Honor, just as a matter of procedure
7 before we get started, I think my client's petition, or
8 application for post conviction relief, in it he is requesting
9 that the sentence be vacated or modified with time reduced. I
10 think it would be appropriate for me to move to amend that and
11 ask for a new trial, since obviously, those other matters
12 aren't allowed under post conviction relief. So, just as a
13 procedural matter.

14 THE COURT: Any objection to that?

15 MS. WILLIAMS: No, he can testify.

16 THE COURT: Okay. Okay. I'll note the amendment. Okay.

17 (NOTE: Blank lines on this page do not indicate any part of
18 record has been omitted. Headers on testimony pages and hard
19 page breaks between testimony are now required by the Court.
20 See next ensuing page for sequential continuation of record.)

1 KELLEY BURBAGE - DIRECT EXAMINATION

2 BY MS. WILLIAMS:

3 Q. Ms. Burbage, tell me about your legal experience?

4 A. I was employed as an Assistant Solicitor here in
5 Orangeburg County from around January of O-five until May of
6 Two thousand and ten.

7 Q. And what is your current status?

8 A. I'm currently on inactive with the South Carolina Bar.
9 I'm staying at home with my nine month baby.

10 Q. So, in your duties as a Solicitor did you pursue the case
11 against John Randolph?

12 A. I did.

13 Q. Okay. And do you have your file on that case with you in
14 that matter?

15 A. I do.

16 Q. Okay. Today we're here to ask you just about any
17 recollection you have of the guilty plea that occurred with
18 Judge Williams, so I'm going to ask you just if you remember
19 certain questions being asked or not asked, or if you can tell
20 me about Judge Williams' practice in those matters?

21 A. Like I said, I was here for about five years here in
22 Orangeburg County. I do not have any independent recollection
23 of this particular plea the day of the guilty plea. My file
24 has notes throughout it which would indicate it was definitely
25 my case. As far as actually doing the plea that day I don't

KELLEY BURBAGE - DIRECT EXAMINATION BY MS. WILLIAMS

6

1 have any recollection of it. I can, for the Court I can sort
2 of generally go through what I would have said had I did the
3 actual guilty plea that day, and I can also provide the Court
4 any information regarding the general questions that Judge
5 Williams might normally ask.

6 Q. Thank you. Can you tell me, did Judge Williams have a
7 procedure where he would advise of Constitutional rights which
8 is right to a jury trial, right to remain silent?

9 A. He did. Sometimes we would have a number of individuals
10 in the courtroom at one time where he might have all of those
11 individuals who might at anytime plead guilty that day to
12 stand up and he would advise them of their general rights. I
13 don't know in this particular case if Mr. Randolph was handled
14 that way. There are sometimes, like I said, in a term of
15 Court where we have a number of individuals in the room and
16 that's how it takes place, but there was also times where it
17 might just be a few pleas and he might go through all of the
18 advice of rights individually with that particular defendant.

19 Q. And would it be your typical practice during a guilty plea
20 to state the facts that would give rise to the charges for
21 which he is pleading guilty?

22 A. It would. Like I said, I don't have any exact independent
23 recollection of that day. However, a normal, and having done
24 numbers of pleas throughout the years that I was here I would
25 have started with a basic introduction of the case itself,

1 what they were here today to plead guilty to, what the charges
2 they would be pleading guilty to, what, if any, charges were
3 being dismissed as a condition of the plea, and then at the
4 appropriate time when the Judge would ask me for the facts of
5 the case it would be at that time that I would relay the
6 pertinent facts of the case, a brief or synopsis of the facts
7 in the entire case jacket, obviously. But that would be the
8 standard practice where I would, so I can tell the Court.

9 Q. What was, were there some charges dismissed in this case
10 as part of the negotiations?

11 A. There were. If I can look through the packet. In this
12 particular case I believe Mr. Randolph pled guilty to one
13 count of trafficking cocaine, twenty-eight to a hundred grams,
14 first offense, one count of unlawful carrying of a pistol, one
15 count of trafficking crack cocaine or cocaine base, ten to
16 twenty-eight grams, first offense. Let me make sure I didn't
17 speak incorrectly on the cocaine, it was twenty-eight to a
18 hundred, and on the crack cocaine it was ten to twenty-eight
19 grams. And I believe he pled to one count of possession with
20 intent to distribute marijuana, first offense. He also, as a
21 condition of the plea, a number of charges were dismissed.
22 There was a possession with intent to distribute within
23 proximity of a school of crack cocaine, a proximity charge for
24 cocaine, a proximity charge I believe for the marijuana, a
25 possession of cocaine charge, another possession with intent

KELLEY BURBAGE - DIRECT EXAMINATION BY MS. WILLIAMS

8

1 to distribute within proximity other than crack cocaine, I'm
2 not sure from the sheet that's before me what drug it was, and
3 then another pistol charge was dismissed. I believe, I'm not
4 sure of the total number, I could add them up if you need me
5 to.

6 Q. That's alright, we've got a list. Would you be asked for a
7 prior record of the defendant?

8 A. I would, and in this case I don't believe Mr. Randolph had
9 a prior record.

10 Q. Can you tell me just based on your notes in the file what
11 you believe you would have informed the Court of the factual
12 basis for the plea?

13 A. I can. The incident did occur on February the Fourth of
14 Two thousand and nine. The incident, officers of the
15 Orangeburg County Sheriff's Office responded to a drug
16 complaint about the incident location, which was Thirty-six
17 sixteen St. Matthews Road here in Orangeburg County, that was
18 at the Southern Lodge, which would be a hotel. The subjects
19 were in Room Number One thirty-one. The response of the
20 officers were due to potential people going in and out of the
21 room the day before potentially selling, or there was some
22 sort of drug activity going on in that room. When the
23 officers arrived near the room One thirty-one they saw two
24 males entering the room, and they then got, when they went
25 into the room the officer knocked and announced their

KELLEY BURBAGE - DIRECT EXAMINATION BY MS. WILLIAMS

9

1 presence, and at that point another individual who was in the
2 room, not Mr. Randolph, opened the curtain and saw the
3 officers, then opened the door. The officers then explained
4 why they were there and what they wanted to talk to them
5 about, and when they walked in, at that point they observed --
6 the officers did observe what appeared to be a marijuana blunt
7 laying on the headboard of the bed and there was also one in
8 an ash tray, and upon talking to them further they also asked
9 who was driving the vehicle outside, there was a Chevrolet
10 Tahoe that was parked out in front of the room, and at that
11 point I believe Mr. Randolph indicated that he drove there in
12 that vehicle. At that point the officers asked for consent to
13 search both the room and the vehicle, and they agreed, and
14 signed a voluntary consent to search form. And it was upon
15 searching the vehicle, the officers drugs in plain view, a
16 travel bag between the seats, and further inspection of the
17 vehicle revealed a, that the black bag cocaine, what appeared
18 to be cocaine, crack cocaine, marijuana, possibly ecstasy,
19 baggies, rubber bands, a measuring scale with cocaine residue
20 on it, a drug grinder with marijuana residue on it, a spoon
21 with cocaine residue, a sorting straw, approximately Thirty
22 thousand two hundred and thirty-one Dollars in cash, and there
23 was a loaded Three fifty-seven hand gun underneath the
24 driver's seat, and according to the incident report the
25 subject indicated, after having been given his Miranda rights,

1 the subject being Mr. Randolph, stated that the drugs and
2 money found in the vehicle were his. Then the other subject
3 indicated that the items found in the room were his. That
4 would be a basic synopsis of the facts according to the
5 incident report, and that would be a general sort of relay of
6 the facts that would be given to the Court.

7 Q. There are a couple of things, and what do you remember,
8 can you tell me was the waiver of presentment addressed at the
9 plea?

10 A. As I said, I can't, I don't have any independent
11 recollection of whether or one was, these were waived
12 indictments and, you know, generally, with the two different
13 types of indictments you have something that's true billed or
14 one, and individual is waiving presentment that Judge Williams
15 would have addressed that situation during his, when he would
16 go over all that information with the client, with the
17 defendant. But I don't know if he for certain did that in
18 this case.

19 Q. And would that be the same for things like, did Judge
20 Williams ask if he were guilty?

21 A. That would be the same. Generally, he would, he had his
22 own, each Judge seems to have their own order in which they
23 might ask the questions but they're all the same questions,
24 and generally the Judge would have gone down that list of
25 questions, and one would have been waiver of presentment and

1 one would have been, those would have been the same kind of
2 questions he would have asked.

3 Q. And did you, or do you recall observing anything to you
4 that would indicate that Mr. Randolph was under the influence
5 or had any kind of competency issue?

6 A. As I, unfortunately, I can't recall his appearance that
7 day.

8 MS. WILLIAMS: Thank you very much. That covers, I
9 think, the questions for the transcript that we're trying to
10 reconstruct.

11 THE COURT: Okay.

12 MS. WILLIAMS: If I could just have a moment. If there
13 are some questions that Mr. Jackson wanted to ask regarding
14 the transcript ...

15 THE COURT: Of Ms. Burbage?

16 MR. JACKSON: I will when she's finished.

17 THE COURT: Yeah. Are you through questioning Ms.
18 Burbage?

19 MS. WILLIAMS: I may have a few more questions, I think.

20 THE COURT: Well, we'll wait, then. I want her to finish
21 with direct, I know you do, too. Right?

22 MR. JACKSON: Yes, sir.

23 THE COURT: What time is your next hearing?

24 MR. JACKSON: Three:fifteen.

25 THE COURT: Okay.

1 MR. JACKSON: If I'm tied up I need to send word up
2 there. The problem is, my client drove some distance to get
3 here.

4 THE COURT: Yes, sir. We should be hopefully through by
5 Three:fifteen. I guess it depends on your cross.

6 Q. There are a couple of matters, these are including your
7 packet and sentencing sheets, the Court's records are already
8 there, but just to review these with you, Ms. Burbage, I've
9 got some sentencing sheets here from these charges, and can
10 you tell me if that was your signature?

11 A. It is. I've reviewed all the information, it definitely
12 is my signature and my Bar number. The, like I indicated,
13 because I don't particularly remember actually standing here
14 and doing the plea that day, sometimes they could have been
15 filled out, and then someone else actually handled the actual
16 plea that day, but as I've told the Court, I don't see
17 anything in my file that would indicate I did not do it, I
18 just can say for a hundred per cent that I stood there and did
19 the plea that day. But that is my signature on all the
20 sentencing sheets.

21 Q. In terms of the check marks where he waives presentment,
22 his initials, and Mr. Grant has signed, would those things
23 have been on the sentencing sheet?

24 A. They would have been, and it also would be, I believe I
25 looked, I can double check all of the indictments, but when he

1 waived presentment there's a signature on the fact of the
2 indictments as well where he did waive presentment.

3 Q. And you would be there when he would sign those items?

4 A. I would not necessarily be there, no. Paperwork could
5 have been given to Mr. Grant at anytime prior to the plea. It
6 might have even not been that day. So, I wouldn't have
7 witnessed the signatures, no.

8 Q. And there are some additional items from the Clerk of
9 Court, tracking sheets where you have, where there's
10 indications of, pled guilty to other charges, that these were
11 nol prossed, is that either, it lists your name, is that your
12 signature or is that your ...

13 A. That's my signature, yes, ma'am.

14 Q. Okay. So, you would have filled those forms out?

15 A. Yes, I did.

16 MS. WILLIAMS: Alright. I think that covers it. And I
17 think these are all part of your packet.

18 THE COURT: I have those as part of the Court file.
19 Anything else, Ms. Williams?

20 MS. WILLIAMS: That's all.

21 THE COURT: Okay. Mr. Jackson.

22 (NOTE: Blank lines on this page do not indicate any part of
23 record has been omitted. Headers on testimony pages and hard
24 page breaks between testimony are now required by the Court.
25 See next ensuing page for sequential continuation of record.)

1 KELLEY BURBAGE - CROSS-EXAMINATION

2 BY MR. JACKSON:

3 Q. Ms. Burbage, obviously, you took many, many pleas over
4 five years?

5 A. Yes, sir.

6 Q. And you don't have an independent recollection of this
7 particular plea?

8 A. No, sir, I can remember discussing this plea with the
9 defense attorney and the Judge, but I don't remember the
10 actual date of the plea.

11 Q. Okay. Therefore, it's certainly possible that there could
12 have been matters that were overlooked by Judge Williams in
13 terms of taking the guilty plea that you just don't remember?

14 A. I could testify as to all the matters that he did or did
15 not address that day, that's correct.

16 Q. And you have read some facts of this case, I guess, from
17 your incident report?

18 A. That's correct.

19 Q. Could I look at it? Because again, the one I have is a
20 little bit cut off. Where is the incident report?

21 A. That would the first few pages is where I was reading
22 from. It's kind of actually where I might have underlined,
23 seriously, I'm not sure. Right there.

24 Q. Okay. My page on here was cut off. So, it does say,
25 according to this incident report that Subject Number Two, who

1 is - - -

2 A. Mr. Randolph, I believe, yes, sir.

3 Q. --- Mr. Randolph, stated to the officer that the drugs and
4 money found in the vehicle were his. Is that ...

5 A. That's what the incident report says, yes.

6 Q. It indicates that he was read his Miranda rights?

7 A. That's correct.

8 Q. Again, whether that was stated to Judge Williams or not
9 you don't, you can't be certain?

10 A. For me to be here today and say certainly, every factor
11 was relayed, no, sir, I can't do that.

12 Q. Do you recall whether or not Mr. Grant objected, or Mr.
13 Randolph either one, objected to any of the recitations of
14 facts that you know of?

15 A. I don't recall.

16 Q. Okay. They may have?

17 A. And to my recollections today, also there are other facts,
18 some of which might have applied to the co-defendant and so
19 forth that I didn't relay to the Court today either.

20 Q. So again, without the transcript we don't know exactly
21 what the facts are that were presented to the Court as far as
22 you know?

23 A. That's correct.

24 Q. Do you recall negotiating with Mr. Grant in regards to the
25 sentence?

1 A. I do.

2 Q. Okay. Tell me a little bit about that.

3 A. I can go by my notes in the file. Basically, ...

4 Q. What was Mr. Grant asking for?

5 A. As is indicated through the plea sheets, there was a
6 reduction in the charges. Mr. Randolph was charged with
7 trafficking cocaine over one hundred grams but less than two
8 hundred grams, ...

9 Q. What would that carry?

10 A. A mandatory twenty-five years. I believe it's twenty-five
11 to thirty.

12 Q. Alright. And that's a mandatory minimum, is that correct?

13 A. That's correct.

14 Q. So, certainly, Mr. Grant was looking for something less
15 than that, is that right?

16 A. That's correct.

17 Q. And what -- obviously, the charge was reduced to twenty-
18 eight to a hundred grams, is that correct?

19 A. On that charge, yes.

20 Q. On that charge. What would that carry?

21 A. That would carry seven to twenty-five.

22 Q. Okay. So, it's possible then that Mr. Randolph could have
23 received more than the eight years he got?

24 A. Yes.

25 Q. Was the eight years negotiated between you and Mr. Grant,

1 was that something that was recommended by the State,
2 negotiated, or how did that come about?

3 A. I believe, if I can look at the plea sheets again, I
4 believe it was not a negotiated plea, I believe it was a
5 recommendation that I made. According to the plea sheets it
6 was a recommendation that the State made.

7 Q. Okay. So, again, that would have been, however, part of
8 negotiations with you and Mr. Grant to work out that the State
9 would ask for eight years?

10 A. Correct. As far as what went into the negotiations there
11 were, he had no prior record, as well as, he had previously
12 testified in a murder trial in our office as well.

13 Q. Were those matters taken into account by you?

14 A. Yes, they were. Those matters were the reasons for which
15 I had agreed to reduce the charges and to dismiss the other
16 charges.

17 Q. Okay. Again, your understanding from your notes is that
18 you recommended an eight year sentence. Did you recommend an
19 actual eight year sentence or a sentence not to exceed eight
20 years, or do you recall?

21 A. According to my notes that I believe I wrote after the
22 guilty plea in front of Judge Williams, the same reasons for
23 which I just gave, that he had testified, that I recommended
24 that he, I went ahead with the eight year recommendation.

25 Q. And do you know whether or not those reasons were put on

1 the record?

2 A. I know that they -- we spoke to Judge Williams, we
3 discussed this plea previously with Judge Dickson, and then we
4 discussed it with Judge Williams. So, those matters were put
5 before the Judge. Whether they were put before the Judge on
6 the record during the plea I'm not certain. However, based on
7 my notes I'm pretty certain that those matters were put before
8 Judge Williams at some point.

9 Q. Okay. Now, when you discussed with Judge Dickson, I take
10 it that was a different week of Court?

11 A. I believe that was back -- I believe it was in September,
12 I'm not a hundred per cent certain of the date, but I believe
13 it was back in September of O-nine. Evidently, we had
14 discussed it and didn't do the plea that term of Court, and
15 then it wasn't until Two thousand and ten that we actually did
16 the plea.

17 Q. Okay. And was the case ready for trial that week? I
18 mean, or was it wasn't ready for trial?

19 A. I don't believe it was.

20 Q. No, it wasn't ready for trial because the indictments
21 weren't true billed. Why did it take so long?

22 A. They just weren't sent to the Grand Jury.

23 Q. Did you have drug analysis back?

24 A. Oh, we do, it looks like we do have the drug analysis back
25 on all the drugs except for, I do not see the marijuana

1 analysis in here, so I'm, I would assume that that date he
2 went ahead with the plea, waiving that analysis on the
3 marijuana, but the rest of the drug analyses are actually in
4 my file, and I believe from my records they were given to Mr.
5 Grant.

6 Q. So, on all four indictments to which he pled guilty he,
7 the Grand Jury presentment was waived?

8 A. Yes.

9 Q. And do you have an independent recollection of that on the
10 record or do you just see that - - -

11 A. No.

12 Q. --- on the guilty plea sheet?

13 A. No, I do not have an independent recollection.

14 Q. It is on the guilty plea sheet, thought, is that correct?

15 A. Yes. I believe he would have initialed it as well as
16 signed the face of the indictment.

17 Q. Do you recall having lengthy negotiations with Mr. Grant,
18 or did y'all come to this resolution fairly quickly, or do you
19 recall any of that?

20 A. I don't recall exactly how long, but based on my notes and
21 what I've already relayed to the Court it was fairly, it was
22 definitely, these matters were definitely negotiated between
23 myself and Mr. Grant.

24 Q. Okay. He was looking for as low a time as possible or
25 even probation, or do you recall what he was asking for?

1 A. I don't recall, if you're asking me to make a guess, but
2 no, I don't recall exactly what he might have asked for me,
3 the lowest he might have asked for. If he asked for
4 probation, then obviously that wasn't an option.

5 Q. Okay. And the decision on this, was that entirely yours
6 or did you, were you and ...

7 A. I probably consulted with the attorney for which he had
8 testified, and that would have been Don Sorenson.

9 Q. Okay. Do you remember whether you consulted with anybody
10 else in your office or - - -

11 A. I don't remember.

12 Q. --- you pretty much had free range to work on your case?

13 A. I did, but I don't remember if I -- I might have consulted
14 with other attorneys in my office, but I would have had the
15 authority to make the decision on my own, but I feel certain I
16 did at least consult with Mr. Sorenson, and I might have
17 consulted with another or other attorneys in my office.

18 Q. Now, you indicate that his prior testimony and his lack of
19 a prior record were important to you?

20 A. Yes.

21 Q. Do you remember anything else that was important to you
22 that you considered, or do your notes indicate anything else
23 important in considering your recommendation?

24 A. In fact, I mean, I remember, to further elaborate on your
25 questions of negotiations, I have notes in my file where I was

1 reiterating to the Judge, or the Judges about facts to go in
2 opposition of what Mr. Grant was wanting, meaning that his
3 apartment had been involved in two different incidences in
4 which our office had prosecuted. So, if that makes sense, I
5 was, Mr. Grant was asking for a much lower sentence, and I was
6 using that information to reiterate why I could not negotiate
7 any further a lower sentence.

8 Q. And so, even though he had no other record, he was
9 involved in two other matters with your office?

10 A. His apartment had been involved in two incidences, the one
11 in which he testified his apartment was used in that
12 particular, I believe it was his apartment that that incident
13 took place in.

14 Q. Okay.

15 A. And then there was another incident that had occurred in
16 his apartment and I relayed that to the Court because that
17 reminded me that I was making my arguments against Mr. Grant
18 when he was asking me to lower the sentence.

19 Q. Were y'all not able to reach an agreement?

20 A. We were able to reach an agreement.

21 Q. If it had not been you would have used that information,
22 is that what you're saying?

23 A. No, I'm saying that I believe I did use that when we
24 talked to the Judge about the case when we were seeing what
25 kind of sentence the Judge would give if we reduced the

1 charges.

2 Q. Do you recall talking to the police officer involved in
3 this matter, or officers?

4 A. I don't recall talking to them, I might very well have
5 talked to them at some point, but I don't have any independent
6 recollection of conversations.

7 Q. Who was the primary officer?

8 A. I believe it was Marty Journey with the Sheriff's Office.

9 Q. Okay. And do you know any other officers involved?

10 A. I believe I saw on the incident report where I think it
11 was Conyers, I'm not sure how many officers were out there
12 that day. I can review my notes if you would like me to.

13 Q. Well, let me ask you this, were there any kind of
14 fingerprints, DNA, scientific evidence that you, that was part
15 of this case?

16 A. As far as the evidence that was collected, what I'm aware
17 of would be the bullets, the gun, and all the evidence that
18 was put in a best kit, the drugs, and then the marijuana I
19 believe was put in another bag. So, the drugs, the gun, the
20 bullets, and as far as any other evidence that was collected,
21 all the items that I indicated, I think there was a scale.
22 There's some photographs that show all the different things
23 that were collected, but as far as any other outside evidence
24 I'm not aware of any.

25 Q. So, you're not aware if any of those items were dusted for

1 prints?

2 A. I'm not aware of that.

3 MR. JACKSON: Your Honor, that's all I have, thank you.

4 THE COURT: Mr. Jackson, before we go any further, I
5 noticed in the questioning it became apparent that Mr. Grant
6 and Ms. Burbage apparently had some conversations with me
7 about this case?

8 MR. JACKSON: I've talked to my client about that and
9 discussed it with him. He's waiving -- I'm not sure that's
10 even a conflict, but he's waiving, but ...

11 THE COURT: Alright. I wanted to make sure he had no
12 objection to me hearing this case. Is that correct?

13 MR. JACKSON: That's correct.

14 THE COURT: Is that correct, Mr. Randolph, do you have
15 any objection to me hearing this case?

16 MR. RANDOLPH: No, sir.

17 THE COURT: Okay. Alright, sir. Okay, thank you.

18 Ms. Williams?

19 MS. WILLIAMS: Nothing.

20 THE COURT: Thank you, Ms. Burbage.

21 MR. JACKSON: In fairness, Your Honor, actually, the
22 Attorney General's Office called me several weeks ago to tell
23 me about that.

24 MS. BURBAGE: As soon as I reviewed the file and I saw
25 that we had spoken with Your Honor about a reduction in charge

1 and what possible sentence you might give before we ever did
2 the plea in front of Judge Williams, knowing that that
3 information was probably provided to Judge Williams as well, I
4 made sure to tell Ms. Williams, and she informed Mr. Jackson
5 prior to being here today.

6 THE COURT: Thank you, ma'am. And just for the record, I
7 don't recall any conversations about this. Thank you, ma'am.

8 MS. BURBAGE: Thank you, Your Honor.

9 THE COURT: Ms. Burbage, it's good to see you again.

10 MS. BURBAGE: It's good to see you.

11 MS. WILLIAMS: And since we've kind of gone outside the
12 scope of reconstruction the record with Ms. Burbage, we can
13 just go ahead and proceed with the merits hearing and kind of
14 work in, I'll be glad to work in some of these questions with
15 Mr. Grant as to, if he remembers anything about questions
16 asked at the plea, but ...

17 THE COURT: May Ms. Burbage be excused, anybody?

18 MS. WILLIAMS: She certainly may with thanks.

19 MR. JACKSON: Can I object to that?

20 THE COURT: You can, it won't do you any good but I will
21 note your objection.

22 MR. JACKSON: Your Honor, I'd call Mr. Randolph.

23 THE COURT: Alright, Mr. Randolph, if you'd please come
24 up here, please, sit down.

25 MR. JACKSON: Put your hand on the Bible and raise your

1 right hand as best you can.

2 THE COURT: Mr. Randolph, yes, to the best of your
3 ability if you'll put your left hand on the Bible, please,
4 sir. Alright. And then if you'd follow Ms. Wilson's
5 instructions.

6 (Whereupon, John Randolph, Junior,
7 is duly sworn.)

8 CLERK: Have a seat and state your name for the Court
9 Reporter, please.

10 WITNESS: My name is John Randolph, Junior.

11 THE COURT: Alright, thank you, Mr. Randolph.
12 Mr. Jackson.

13 (NOTE: Blank lines on this page do not indicate any part of
14 record has been omitted. Headers on testimony pages and hard
15 page breaks between testimony are now required by the Court.
16 See next ensuing page for sequential continuation of record.)

JOHN RANDOLPH, JR., - DIRECT EXAMINATION BY MR. JACKSON

26

1 JOHN RANDOLPH, JR., DIRECT EXAMINATION

2 BY MR. JACKSON:

3 Q. Mr. Randolph, let me start by asking you, where did you
4 live prior to your arrest on these charges?

5 A. It was Jasmine Road with my wife and my kids.

6 Q. Okay. You're married, is that correct?

7 A. Yes, sir.

8 Q. You have children?

9 A. Yes, sir.

10 Q. How many children do you have?

11 A. Two.

12 Q. And how old are they?

13 A. They'll be four this year.

14 Q. They're twins?

15 A. Yes, sir.

16 Q. Were you employed at that time, Mr. Randolph?

17 A. No, sir, I was recently laid off.

18 Q. I'm sorry, laid off from where?

19 A. Husker Varner.

20 Q. Okay. How long did you work at Husker Varner?

21 A. About four years on and off, where they would lay off and
22 rehire.

23 Q. Okay. And my understanding from previous testimony, you
24 did not have a criminal record prior to this case, is that
25 correct?

1 A. No, sir.

2 Q. Now, you, were you able to get out on bond after you were
3 arrested?

4 A. Yes, sir.

5 Q. Okay. How long did you have to serve before you got out on
6 bond, do you know?

7 A. I think it was one night, or one day.

8 Q. One day?

9 A. Yes, sir.

10 Q. Okay. And after you were released did you hire an
11 attorney?

12 A. Yes, sir.

13 Q. Who did you hire?

14 A. Mr. Carl Grant.

15 Q. Okay. And about how long after your arrest did you hire
16 Mr. Grant, was it fairly soon or was it some time?

17 A. I'd say it, I think it was about a month, a month after I
18 was arrested.

19 Q. Okay. And you were represented throughout this case by
20 Mr. Grant, is that correct?

21 A. Yes, sir.

22 Q. Now, you were charged with a number of different things,
23 you're aware of that?

24 A. Yes, sir.

25 Q. All of it stems from your being found there at this motel

1 room, is that correct?

2 A. Yes, sir.

3 Q. You were at the Southern Lodge?

4 A. Yes, sir.

5 Q. On the date in question, and I don't recall the date,
6 February Fourth of Two thousand nine, does that sound right?

7 A. Yes, sir.

8 Q. And you were in the room with another person, is that
9 correct?

10 A. Yes, sir.

11 Q. Who was the other person?

12 A. Melvin Sweat.

13 Q. Okay. How did you know him?

14 A. Just a friend I knew from the street.

15 Q. And you -- he was in the room and you drove and went to
16 see him in the room, is that correct?

17 A. Yes, sir.

18 Q. What was the reason you went to see him if you can
19 remember?

20 A. I called him earlier because we see each other like every
21 other day. Like I say, we was real close friends. And he
22 called me and told me he was sick, you know what I'm saying, I
23 just told him I was going to come by and see him.

24 Q. Alright. And do you know, had he been to the hospital
25 prior to that?

1 A. That's what he said, he said he was in the hospital.

2 Q. Okay. But he had gotten out and said he was at the
3 Southern Lodge, is that correct?

4 A. Yes, sir.

5 Q. Did he stay there often?

6 A. Not that I know of.

7 Q. Alright. And about what time did you arrive?

8 A. I think it was around, either around or before ten o'clock
9 that morning.

10 Q. So, this was in the morning, is that correct?

11 A. Yes, sir.

12 Q. In the daylight?

13 A. Yes, sir.

14 Q. Were you by yourself in the vehicle you were driving or
15 were you with somebody?

16 A. I was by myself.

17 Q. And was this a vehicle you owned or somebody else owned
18 it?

19 A. No, the vehicle was owned by my mother.

20 Q. Okay. And you parked the vehicle and went inside, is that
21 correct?

22 A. Yes, sir.

23 Q. How long was it before you got the knock at the door?

24 A. Probably about thirty minutes, thirty or thirty-five
25 minutes.

1 Q. Okay. And when did you -- who went and answered the door?

2 A. Melvin.

3 Q. Melvin did?

4 A. Yes, sir.

5 Q. Did he look out the window first or ...

6 A. Yeah, he looked out the window.

7 Q. Did he realize it was a police officer?

8 A. Yes, sir.

9 Q. And what did y'all do at that time?

10 A. He just told, let me know it was the cops, and you know, I
11 was, like, why?

12 Q. Did he open the door or you?

13 A. He opened the door.

14 Q. And the offices were, came on in the room, is that
15 correct?

16 A. Yes, sir.

17 Q. What happened when the officers came in the room?

18 A. They said they got a report of drug activity going on in
19 the room, and they asked who owned the room, and my co-
20 defendant, Melvin, said it was his room, and the other officer
21 asked could he pat me down for any weapons or drugs which I
22 let him do.

23 Q. Did he find any weapons or drugs on your person?

24 A. No, sir.

25 Q. Okay. But he did pat you down with your permission?

1 A. Yes, sir.

2 Q. Alright. What happened next?

3 A. One officer had me outside the room while the other
4 officer had Melvin inside the room.

5 Q. What happened outside the room where you were with you and
6 the officer?

7 A. Nothing really, he was just asking me what I was doing
8 there.

9 Q. Okay. Were you in handcuffs or were you free to leave?

10 A. I wasn't in handcuffs as soon as we went outside, I didn't
11 get in the handcuffs until the officer in the inside let the
12 other officer know that he saw drugs.

13 Q. So, the officer inside the room said he had found drugs?

14 A. Yes, sir.

15 Q. And then they put cuffs on both of you?

16 A. Yes, sir.

17 Q. Alright. What happened then?

18 A. They handcuffed us. He brought me back inside the room,
19 sat me down, and basically start asking us the same questions
20 over.

21 Q. Did they read you your Miranda rights at anytime at this
22 point?

23 A. No, sir.

24 Q. Okay. They were asking you questions?

25 A. Yes, sir.

1 Q. Alright. Did they ultimately ask about searching your
2 car?

3 A. After a certain amount of time, they were focusing on the
4 room at first, and who was the drugs owned in the room.

5 Q. Alright. They asked who the drugs were they found in the
6 room?

7 A. Yes, sir.

8 Q. And what was the response?

9 A. Melvin told them that it was his.

10 Q. Alright. They continued to ask you questions, is that
11 correct?

12 A. Yes, sir.

13 Q. What kind of questions?

14 A. Like, whose room is it, because Melvin was telling them
15 that the room was in his girlfriend's name, and he was staying
16 there with his girlfriend. And they was asking, like, where
17 she was, how did I get there, why was I there, and they just
18 kept going over and the same questions.

19 Q. But they did not read you your Miranda rights throughout
20 this process?

21 A. No, sir.

22 Q. Alright. Did they ultimately ask you about searching your
23 car?

24 A. Yeah, the separated us at a certain time, they took Melvin
25 outside, talked to him for a while, brought him back in, and

1 then they took me outside, and when he took me outside that's
2 when he asked me to search my vehicle.

3 Q. What did you say?

4 A. I told him no at first.

5 Q. But again, prior to that had they read you your Miranda
6 rights?

7 A. No, sir.

8 Q. Alright. Did you ultimately at some point say yes to
9 searching your car?

10 A. Yes, sir.

11 Q. Okay. But you said no at first?

12 A. Yes, sir.

13 Q. Why did you change your mind and say yes?

14 A. Because they was saying, talking about running the tags
15 and getting the owner of the vehicle down there, which was my
16 mother, and I didn't want to bring my mother into it.

17 Q. Okay. Did you actually sign a paper agreeing for them to
18 search your car?

19 A. Yes, sir.

20 Q. Now, and they apparently found drugs and - - -

21 A. Yes, sir.

22 Q. --- things like that in the car, is that correct?

23 A. Yes, sir.

24 Q. They found some money, too?

25 A. Yes, sir.

1 Q. Was that in the car or on you?

2 A. In the car.

3 Q. Now, did you ever admit that the drugs in the car were
4 yours?

5 A. No, sir.

6 Q. So, if the officer said in a report that you did, it meant
7 that's not correct?

8 A. Yes, sir.

9 Q. You never admitted that?

10 A. No, sir.

11 Q. Were you aware that there were drugs in your car?

12 A. No, sir.

13 Q. What about the money, were you aware of that?

14 A. No, sir.

15 Q. What about the guns, gun or guns?

16 A. No, sir.

17 Q. You didn't know about those either?

18 A. NO, sir.

19 Q. Okay. Did you explain all that to Mr. Grant?

20 A. Yes, sir.

21 Q. Okay. Now, and ultimately you were charged with
22 possession of all those things?

23 A. Yes, sir.

24 Q. Now, how often did you meet with Mr. Grant after you hired
25 him, do you recall?

1 A. I don't know how many times it was exactly, but usually
2 after he'd come and talk to, I guess it was the Solicitor he
3 was talking to, after he got some information from the
4 Solicitor he would call and let me know what was going on.

5 Q. Okay. So, he would you on the phone, and would you ever
6 meet with him in his office?

7 A. Yes, sir, I met with him at his office.

8 Q. Okay. About how many times, do you recall?

9 A. Probably like two or three times.

10 Q. How many times did he call you when he called?

11 A. Those two or three times.

12 Q. Now, did he talk to you about your right to a jury trial?

13 A. Yes, sir.

14 Q. Did you understand you had a right to a jury trial?

15 A. Yes, sir.

16 Q. Did you explain to him that these officers never read you
17 your Miranda rights?

18 A. Yes, sir.

19 Q. Did you explain to him that you did not tell them the
20 drugs were yours?

21 A. Yes, sir.

22 Q. Or the gun?

23 A. Yes, sir.

24 Q. Okay. Did you, I mean, did you and he talk about actually
25 having a jury trial?

1 A. On the day I was taking my plea.

2 Q. Alright. Well, before that day?

3 A. No, sir.

4 Q. Were you planning on having a jury trial or were you
5 planning on doing a guilty plea?

6 A. We was just planning on a guilty plea.

7 Q. Alright. So, did you, is that what you talked to him
8 about was pleading guilty, or get the best deal, or whatever?

9 A. Yes, sir, getting the best deal.

10 Q. Alright. Now, I mean, I assume he called you and told you
11 to come up to the courthouse about the plea, correct?

12 A. Yes, sir.

13 Q. What did he tell you about what was going to happen?

14 A. He just told me what they was offering me and if I didn't
15 take it then I would have to go to trial.

16 Q. What were they offering you?

17 A. Eight years.

18 Q. Okay. And what did you talk to him about in terms of
19 that, were you willing to do the eight years or were you not,
20 or what were you, what was your, what were you telling him?

21 A. I was asking him if he could do anything better than that,
22 but he was saying that either the Judge or the Solicitor was
23 saying that that's the best that they was going to do.

24 Q. Okay. Alright. So, did you then decide to plead guilty
25 and take the eight years, or how did that happen?

1 A. I asked him what he felt about going to trial, and I ain't
2 had like the answer, so I said, I'll just take the plea.

3 COURT REPORTER: And he had like what?

4 A. Excuse me?

5 COURT REPORTER: I didn't hear what you said. And he had
6 like the answer?

7 A. I didn't like the answer.

8 COURT REPORTER: Oh, okay.

9 Q. Alright, so you were aware you had a right to a jury
10 trial?

11 A. Yes, sir.

12 Q. And, but you knew there was a plea offer of eight years?

13 A. Yes, sir.

14 Q. Is that what you're telling the Court?

15 A. Yes, sir.

16 Q. Did anybody force you to do that?

17 A. No, sir.

18 Q. Okay. Did you understand what you were doing when you
19 pled guilty?

20 A. Yes, sir.

21 Q. Did, Mr. Grant tell you that you were giving up your right
22 to contest the fact that they didn't read you your Miranda
23 rights and, you know, before you consented to the search and
24 that the police officers were saying things in the reports
25 that weren't true, did he explain all that to you?

- 1 A. No, sir.
- 2 Q. Okay. Did he talk to you about an appeal in any way?
- 3 A. No, sir.
- 4 Q. Okay. But he did tell you that you were going to get eight
5 year?
- 6 A. Yes, sir.
- 7 Q. And you pled guilty and you got eight years?
- 8 A. Yes, sir.
- 9 Q. Now, do you feel like Mr. Grant should have done some
10 other things to help you in this case?
- 11 A. I feel he should have, or he could have.
- 12 Q. What else could he have done?
- 13 A. I don't know, I was asking him to ask the Solicitor of the
14 Judge to take into consideration of my prior record and that I
15 was an Army veteran along with me testifying in a murder case.
- 16 Q. Alright. You say you were an Army veteran?
- 17 A. Yes, sir.
- 18 Q. You talked about that. How long were you in service?
- 19 A. Three years.
- 20 Q. Three years?
- 21 A. Yes, sir.
- 22 Q. Where did you serve?
- 23 A. Fort Bragg.
- 24 Q. And you were in the Army?
- 25 A. Yes, sir.

1 Q. Did you ever go overseas or you ...

2 A. Yes, sir.

3 Q. Okay. How long were you overseas?

4 A. About eleven months.

5 Q. Okay, where did you serve overseas?

6 A. Tazar, Hungary.

7 Q. Hungary?

8 A. Yes, sir.

9 Q. Tazar, is that ...

10 A. Yes, sir.

11 Q. You obviously had no criminal record?

12 A. No, sir.

13 Q. And you had testified in this other case?

14 A. Yes, sir.

15 Q. And do you know whether Mr. Grant talked to them about
16 that?

17 A. I don't know for sure, he told me that he did.

18 Q. Alright, anything else that you want the Court to consider
19 in regards to your application -- let me ask you this, you
20 understand and I've explained to you that the only thing you
21 can get today is a new trial?

22 A. Yes, sir.

23 Q. That this Judge just doesn't have the authority, and I
24 believe the Judge will confirm, he does not have the authority
25 to cut your sentence or negotiate or give you a new deal?

1 A. Yes, sir.

2 Q. The only thing you can get is a new trial?

3 A. Yes, sir.

4 Q. You understand that?

5 A. Yes, sir.

6 Q. And you understand you'll be back to Square One facing all
7 of these charges including the ones that were dismissed, do
8 you understand that?

9 A. Yes, sir.

10 Q. And you understand that on the cocaine charge it's a
11 mandatory minimum of twenty-five years that you'll be looking
12 at - - -

13 A. Yes, sir.

14 Q. --- if you're convicted of that?

15 A. Yes, sir.

16 Q. You understand all of that?

17 A. Yes, sir.

18 Q. I've explained all of that to you?

19 A. Yes, sir.

20 Q. But yet you're still asking the Court, based on these
21 reasons you've given to grant you a new trial, is that
22 correct?

23 A. Yes, sir.

24 Q. Are there any other reasons you want the Court to consider
25 in granting you a new trial other than what we've talked about

1 here today and they didn't read you your Miranda rights?

2 A. Yes, sir.

3 Q. They didn't tell the truth in these reports about some of
4 the things that went on?

5 A. Yes, sir.

6 Q. And that they didn't fully take into consideration your
7 lack of a record, your Army record, and your testimony in the
8 other trial?

9 A. Yes, sir.

10 Q. Again, the first time you told him you did not consent to
11 searching the

12 A. Yes, sir.

13 Q. But yet, they talked about bringing your mother into it?

14 A. Yes, sir.

15 Q. Is there anything else you want the Court to consider?

16 A. The fact that they said I confessed that the drugs and all
17 that they found was mine.

18 Q. Okay. Well, they said that in the report and it wasn't
19 true. Okay. Anything else that you communicated to me or
20 that you want to tell the Judge about in regards to the
21 reasons for you getting a new trial?

22 A. I think that's it.

23 Q. You think that's it. And I believe you said something to
24 me about being handcuffed while they were talking to you and
25 before they read you -- well, they never read you any Miranda

1 rights, is that correct?

2 A. And then, I was handcuffed as soon as the first officer
3 let him know that he saw drugs in the room, that's when he
4 handcuffed me and set us in the room and started off
5 questioning us.

6 Q. Even though Mr. Sweat told him that was his drugs?

7 A. Yes, sir.

8 Q. So, you're telling the Court, they really didn't have a
9 right to arrest you at that point, is that correct?

10 A. Yeah. I was asking why I was being handcuff but ...

11 Q. Did they ever give you an answer?

12 A. No, sir.

13 Q. And there was something in the records about the police
14 officers seeing two people getting out of the car when you
15 were by yourself in the car?

16 A. Yeah, he said in the incident report that he saw two
17 people walking to the room, but I came there by myself and
18 Melvin said he was already, he left the hospital and was at
19 the room until I got there.

20 Q. And there was not a third person anywhere around at
21 anytime, was there?

22 A. No, sir.

23 Q. So, it's not possible they could have seen two people get
24 out of your car?

25 A. No, sir.

JOHN RANDOLPH, JR., - DIRECT EXAMINATION BY MR. JACKSON

43

1 MR. JACKSON: Mr. Randolph, I believe that's all I have.
2 Please answer any questions Ms. Williams might have.

3 THE COURT: Ms. Williams.

4 (NOTE: Blank lines on this page do not indicate any part of
5 record has been omitted. Headers on testimony pages and hard
6 page breaks between testimony are now required by the Court.
7 See next ensuing page for sequential continuation of record.)

1 JOHN RANDOLPH, JR., CROSS-EXAMINATION

2 BY MS. WILLIAMS:

3 Q. Mr. Randolph, who all drove that car besides you?

4 A. Me and I've got a younger brother that drove it sometime.

5 Q. Okay. And did you discuss these police reports with Mr.
6 Grant?

7 A. Yes, sir, I mean, yes, ma'am, excuse me.

8 Q. And you said you didn't like his advice, what did he tell
9 you?

10 A. As far as going to trial he was saying that some cases he
11 thought he was going to win he lost, some cases he thought he
12 was going to lose he won. I just felt like he didn't feel
13 like he was, we had a chance at going to trial.

14 Q. So, would it be fair to say that was a risk you didn't
15 want to take?

16 A. Yeah. He was saying, being that I signed the consent to
17 search that truck, that we already lost the trial.

18 Q. But you didn't want to risk going to trial to try to
19 challenge some of these things in the police report?

20 A. Not no twenty-five years, no. I have a wife, and my
21 mother was shaken up by that.

22 Q. And did you ask Mr. Grant to file an appeal for you?

23 A. Actually, after I took the plea and went to County I was
24 trying to get in touch with Mr. Grant to tell him to file an
25 appeal, but I never got in touch with him.

1 Q. And you gave him the version of the events that you've
2 given us today, is that correct?

3 A. Yes, ma'am.

4 Q. How many times did the officers take you in and out of the
5 hotel room?

6 A. Twice.

7 MS. WILLIAMS: I wanted to be sure I had it right. Thank
8 you, Mr. Randolph.

9 THE COURT: Anything on redirect?

10 MR. JACKSON: No, sir.

11 THE COURT: Okay. Thank you, Mr. Jackson. Thank you Mr.
12 Randolph.

13 Call your next witness.

14 MR. JACKSON: I call Mr. Grant, Your Honor.

15 THE COURT: Okay. Mr. Grant.

16 CLERK: Raise your left and place your right hand on the
17 Bible, please.

18 (Whereupon, Carl Grant
19 is duly sworn.)

20 CLERK: Please have a seat.

21 (NOTE: Blank lines on this page do not indicate any part of
22 record has been omitted. Headers on testimony pages and hard
23 page breaks between testimony are now required by the Court.
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CARL GRANT - DIRECT EXAMINATION BY MR. JACKSON

46

1 CARL GRANT - DIRECT EXAMINATION

2 BY MR. JACKSON:

3 Q. Good afternoon, Mr. Grant.

4 A. Good after, Mr. Jackson.

5 Q. Mr. Grant, how long have you been practicing law now?

6 A. This is my Twenty-sixth year.

7 Q. Okay. One of these days you'll practice as long as I
8 have. How long have you been doing criminal work during that
9 time period?

10 A. Oh, man, I've been doing criminal work now for about
11 Twenty-five years.

12 Q. You've had all kinds of criminal cases, is that correct?

13 A. Yes, sir.

14 Q. Have you ever tried one to a jury trial?

15 A. Yes, sir, many.

16 Q. More than one?

17 A. Much more than one.

18 Q. So, you're certainly familiar with how to try a case, is
19 that correct?

20 A. Absolutely.

21 Q. And you also understand that sometimes guilty plea is the
22 best way to go, is that correct?

23 A. Yes, sir.

24 Q. And now, you were retained by Mr. Randolph and/or his
25 family to represent him, is that correct?

1 A. That is correct.

2 Q. Do you remember about how long after he got arrested that
3 he came in to retain you?

4 A. I was retained on February Twenty-fourth, Two thousand
5 Nine.

6 Q. Okay. So, and he got arrested on February Fourth or
7 something?

8 A. Yes, sir, I think that's about right, yeah, February
9 Fourth.

10 Q. And he pled guilty in January the next year, is that
11 correct?

12 A. That is correct.

13 Q. Tell the Court a little bit, then, about what you did in
14 representing Mr. Randolph in that eleven month period?

15 A. Sure. Naturally, after we're retained we get the client
16 into the office to discuss the case and determine what the
17 facts are and what the client's version is of the facts. Most
18 times when we first meet with the client we don't have the
19 discovery. We file pretrial motions shortly after being
20 retained to get the discovery, that's, of course, a Rule Five
21 and a Brady motion. And then once we get that information
22 from the prosecutor we get the client in and give the client a
23 copy of the discovery, because I don't let a client just rely
24 upon what I tell them is the facts of the case, are the facts
25 of the case. I want them to see for themselves and have the

1 discovery. And then once they get the discovery they have an
2 opportunity to review it and then I tell them, it's like me
3 giving you homework, study it and then come back in and if you
4 have any questions or concerns let's talk about what I've
5 given you. And after we've done, after the client has
6 reviewed the discovery he comes back again, we go over the
7 possibilities as to what the client really wants to do based
8 upon the discovery.

9 Q. Do you at some point sit down with the client and ask him
10 to tell you exactly what all happened?

11 A. I do.

12 Q. And you did that generally before the discovery come in or
13 after or do you have a rule?

14 A. There's no real rule on that, Mr. Jackson, it can happen
15 in the first appointment actually, but normally I really want
16 to have the discovery in hand.

17 Q. And do your records reflect or do you recall having given
18 Mr. Randolph is discovery information that you had?

19 A. Yes, sir, my records to reflect that.

20 Q. Does it show when you had the big conversation, I'll call
21 it, about what actually happened, his version of the facts, do
22 you know what date that occurred?

23 A. I met with Mr. Randolph on numerous occasions. My
24 activity sheet indicates I met with him on August the Sixth,
25 Two thousand and nine, September Twenty-first, Two thousand nine,

1 September Twenty-third, Two thousand nine, November Thirteen,
2 Two thousand and nine. He was supposed to come and see me on
3 January Fourth, Two thousand ten, but it was rescheduled. I
4 met with him also on December Ten, Two thousand nine. And the
5 plea, of course, took place, it looks like January the Fourth.

6 Q. So, he retained you in February, Two thousand nine, but
7 you didn't meet with him until August of Two thousand nine, do
8 you think that's correct?

9 A. That would not be correct. I'm just talking about some of
10 the entries here I made on my file. But that's just some of
11 the entries. But I would have certainly met with him before
12 then.

13 Q. Well, tell me about your conversations with Mr. Randolph
14 and what he wanted you to do. Was he looking for a trial?

15 A. No. He was not looking for trial. And the reason why he
16 was not looking for a trial was because of the exposure. Mr.
17 Randolph was charged with smorgasbord of drug activity. When
18 you think about it his charges were in the gambit from ecstasy
19 pills to marijuana to power cocaine to crack cocaine and also
20 involving a gun. And I explained to him that with that major
21 charge, that is the charge of trafficking cocaine of over a
22 hundred grams, and in this case he had actually a hundred and
23 forty grams of powder cocaine that they charged him with, he
24 was looking at a statutory minimum of twenty-five years in
25 prison, really possibly up to thirty years in prison, no

1 probation, no parole, no suspended sentence.

2 Q. . Alright. And again, the test revealed he had a hundred
3 and forty grams of the powder cocaine?

4 A. Yes, sir.

5 Q. Okay. And he was also faced with substantial time on
6 these other charges was he not?

7 A. Yes, sir. Also trafficking in crack cocaine.

8 Q. Possession with intent, marijuana, and the gun charges - -
9 -

10 A. Yes, sir, and ...

11 Q. --- guns and drugs aren't well looked at by police
12 officers and courts, is that your experience?

13 A. No, sir. And also, four charges of -- drug charges in
14 proximity of a school. And you know, on either one of those
15 charges he could have gotten up to ten years in prison a
16 single count of a proximity of a school charge alone.

17 Q. And the school was Orangeburg-Calhoun Technical College,
18 is that correct?

19 A. Yes, sir.

20 Q. Now, did you ever add up the total numbers he was looking
21 at?

22 A. Yes, sir. He was looking at approximately Seventy-seven
23 years in prison.

24 Q. And did you talk to him about that?

25 A. Yes, sir.

1 Q. And did you explain to him the risk of a trial where he
2 might be convicted particularly of the trafficking in cocaine
3 and looking at that twenty-five year minimum?

4 A. I did. Here's what I normally do. I always tell the
5 clients that the decision of whether you go to trial or
6 whether you plead, that is your decision, but it is my
7 decision to make sure that you make an informed decision. That
8 is, I give you the discovery, I discuss what your concerns may
9 be, but you make the call, and whatever your decision is as to
10 whether you want to go to trial, I mean, for me, I don't have
11 any problem with going to trial if that's what you want to do.
12 And then I normally have the client a statement saying they
13 understand the exposure, and at that point it's like sport for
14 me at that point.

15 Q. Do you have such a statement from Mr. Randolph?

16 A. No, sir, I do not because he did not want to go to trial.

17 Q. So, again, generally speaking he was looking for a plea
18 deal?

19 A. That's right. I think ...

20 Q. What did you do to try and get him one?

21 A. Oh, boy. This is some hard nose negotiation with Ms.
22 Burbage. She's a good lawyer, and she's tenacious about her
23 job when she was working in the Solicitor's office. I tried
24 my best to convince the Solicitor, because of his military
25 record, I have an affinity to military people because I'm a

1 former JAG lawyer myself, and knowing that he was former
2 active duty Army, I tried my best, a soldier, first time
3 being in trouble with the law, I tried to convince her to give
4 him something under five years. But because of the amount of
5 drugs, the number of the various types of drugs, she would not
6 agree to do that, and the best I could get her to do is to
7 agree to have his exposure from seven -- a minimum of seven to
8 twenty-five, and then we come to a deal that a recommendation
9 would be made that he would get no more than eight, that is,
10 one year above the minimum for the lower amount of drugs than
11 what he actually had.

12 Q. And was the deal straight eight years or not more than
13 eight or what?

14 A. My recollection was that the deal was a straight eight
15 years. I don't remember the Judge saying Twenty-five
16 suspended to eight or anything like that.

17 Q. Did, did you explain that to Mr. Randolph?

18 A. Yes, sir.

19 Q. Did he understand when he pled guilty that he was going to
20 get Eight years?

21 A. Yes, sir, he did.

22 Q. Now, we don't any kind of record here because of the
23 mishap with the records, and what do you recall about the
24 guilty plea? I mean ...

25 A. It was a typical guilty plea, with the Judge going through

1 the colloquy between the defendant and himself, and asking him
2 whether or not, Number One, does he understand the charges
3 against him? Has he had enough time to talk to me as his
4 lawyer? Does he have any questions about anything that he's
5 doing? Does he understand the process? How does he plead?
6 Has anybody -- and of course, he indicated guilty. Has
7 anybody forced him to plead guilty? And he indicated, no, no
8 one forced him to plead guilty. Anybody made him any promises
9 to get him to plead guilty? He indicated, no. The Judge
10 asked him whether he had any complaints against the
11 Solicitor's office, any complaints against the police
12 department or anyone? And he indicated, no, he did not. And
13 he indicated he was pleading guilty because he was, in fact,
14 guilty.

15 Q. Do you have that -- is that an independent recollection
16 that you have or is that your remembrance of Judge Williams's
17 standards?

18 A. That's my memory primarily of his standards, but there's
19 nothing in my memory that's telling me that he did anything
20 different than what I've seen him do a hundred times.

21 Q. What if Judge Williams had done something different, what
22 might you have done?

23 A. I would have objected, especially if it didn't meet with
24 the standards of trying to get through that process.

25 Q. Now can I -- do you recall whether or not Judge Williams

1 was told about the Eight year recommendation at the beginning
2 of the plea?

3 A. I believe he was.

4 Q. So, when he asked was Mr. Randolph promised anything, was
5 that a promise, anything promised other than the Eight year
6 recommendation?

7 A. Right, right, other than the recommendation.

8 Q. Now, what does Eight years in this case mean in terms of
9 how long you actually have to serve?

10 A. I'm not exactly sure, but it's Eight years on trafficking
11 in cocaine, which is a violent offense. So, I'm not exactly
12 sure. I believe I told him that it amounts to about Eighty-
13 five per cent of the time.

14 Q. Again, I guess that's what I'm asking. Did you tell him
15 that or do you recall that?

16 A. Yeah, I believe I did tell him that.

17 Q. Do you recall whether or not that would have been
18 something that would have been discussed in a guilty plea?

19 A. I can't remember whether that was discussed in the guilty
20 plea. Sometimes it is and sometimes it's not.

21 Q. Mr. Randolph was primarily interested about how long he
22 was going to have to serve?

23 A. Yes.

24 Q. Did you talk to him about that?

25 A. Absolutely.

1 Q. What did you tell him at the beginning, other than maybe
2 saying something about Eighty-five per cent?

3 A. Right.

4 Q. I mean, did you calculate that out or did you, what did
5 you do?

6 A. I talked to him about Eight years -- here's the thing, this
7 is what I told him, that you have an Eight -- opportunity for
8 an Eight year sentence. If you go to trial, which if you want
9 to go to trial that's perfectly fine, but you've got really a
10 difficult case here to possibly win. If you lose on the
11 pretrial motions as far as trying to keep statements out,
12 evidence out, a Jury may get really upset with you if they
13 believe that you are a drug dealer, dealing all types of drugs
14 in the community. And if you got convicted on Twenty-five
15 years it means exactly that, Twenty-five years, if not more.
16 This is what I told him. And I also let him know that with
17 regards to the Eight year sentence, obviously, that's much
18 better than Twenty-five years. And we talked about, do you
19 really want -- well, we went through the process of the
20 appeal, I specifically remember that, I told him he had ten
21 days from the date that he pleads guilty to file a Notice of
22 Intent to Appeal, but here's the comment that I made, but why
23 would you want to appeal, quote, when you've got the candy
24 bar?

25 Q. Were you aware that he apparently was trying to get a hold

CARL GRANT - DIRECT EXAMINATION BY MR. JACKSON

56

1 of you from the jail or wherever he was?

2 A. No, sir, Mr. Jackson, that's the first that I became aware
3 of that.

4 Q. He did not immediately ask you to appeal anything?

5 A. No, sir.

6 Q. Right after the plea?

7 A. He gave me no indication that he would want to appeal
8 under these circumstances.

9 MR. JACKSON: Thank you, Your Honor, that's all I have.

10 THE COURT: Thank you.

11 Ms. Williams, any questions of Mr. Grant?

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13 record has been omitted. Headers on testimony pages and hard
14 page breaks between testimony are now required by the Court.
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1 CARL GRANT - CROSS-EXAMINATION

2 BY MS. WILLIAMS:

3 Q. Just to be clear, you explained to him the possibility of
4 suppressing the statements and the drugs in this case?

5 A. Yes.

6 Q. Did you give him any kind of prognosis on your likelihood
7 of success?

8 A. Well, I've argued many of them, but won very, very few.
9 We talked about the fact that, Number One, he'd signed, as he
10 indicated, that he's signed a consent form. Here's the point,
11 whether he admitted -- and this is that we discussed --
12 whether he admitted that the drugs were indeed his in the
13 vehicle or not, the officer, by way of his report, would be
14 prepared to testify that he gave them permission by way of the
15 form to search the vehicle and that he saw him getting out of
16 the vehicle, and that, and of course, there'd be a disparity
17 in testimony, and that he told the officers that the drugs
18 were indeed his.

19 Q. You reviewed the officer's report, the incident report and
20 discussed this with him?

21 A. Yes, ma'am.

22 Q. Okay. And that was, and then he made a decision to enter
23 the guilty plea anyway?

24 A. Right.

25 MR. WILLIAMS: Alright. Thank you very much, Mr. Grant.

1 THE COURT: Thank you. Anything on redirect?

2 MR. JACKSON: Nothing more.

3 THE COURT: Mr. Grant, you may step down. Thank you,
4 sir.

5 Alright, Mr. Jackson, any other witnesses?

6 MR. JACKSON: No, sir.

7 THE COURT: Okay. Alright, Ms. Williams, any other
8 witnesses for the State?

9 MS. WILLIAMS: Nothing further from the State.

10 THE COURT: Okay. Alright, I'll be happy to review the
11 file and come back, unless y'all wish to make any arguments on
12 the record.

13 ARGUMENT BY MR. JACKSON:

14 MR. JACKSON: Your Honor, the only real argument I want
15 to make is that, I would ask the Court to consider, I guess
16 it's unusual to me that we don't have a record of the guilty
17 plea. I'm sure those things happen. I've not, I've never had
18 that happen in a case that I've been involved in. But it does
19 make it difficult to know whether or not a person, you know,
20 it's impossible to know really what was actually said at the
21 guilty. I mean, we can assume a lot of things based on
22 history, but that doesn't mean it happens in every case. I
23 mean, I think sometimes judges get, just do things over and
24 over again that it's easy sometimes to leave a part out. And
25 we don't know what was said, what was promised, and I think

1 that makes it unsure. And I would ask the Court to consider,
2 you know, granting Mr. Randolph's request for post conviction
3 relief on the basis that the State's not been able to produce
4 that transcript. It's certainly not his fault, I don't know
5 if it's anybody's fault, but certainly, I think the only
6 person that could produce it would be the State.

7 THE COURT: And Mr. Jackson, he's aware that if I do that
8 he is facing considerable -- I know you asked him, that he's
9 facing considerably more time should he be convicted than what
10 he's pled to.

11 MR. JACKSON: I understand that, sir.

12 THE COURT: Okay. Alright. I understand what you're
13 saying.

14 MR. JACKSON: And other than that I'll just rest on
15 what's in the record.

16 THE COURT: Okay. Ms. Williams, anything, did you want
17 to respond at all?

18 ARGUMENT BY MS. WILLIAMS:

19 MS. WILLIAMS: I can comment that even without the
20 transcript I think it's pretty clear that he was informed of
21 the possibilities at trial and made an educated decision about
22 that, and he has proven nothing that would indicate that his
23 decision to enter his plea was involuntary or otherwise
24 unconstitutional

25 THE COURT: Okay. Thank you, ma'am.

1 Alright, what I'll do is, I'll take the matter under
2 advisement, read the record, and get back to y'all with my
3 decision. Okay?

4 MR. JACKSON: Thank you, Your Honor.

5 THE COURT: Alright.

CERTIFICATE

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I, the undersigned, Mrs. Harry A. Walker, of Rowesville, South Carolina, Official Court Reporter for the First Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the post conviction relief hearing in the captioned cause, relative to appeal, in the Court of Common Pleas For Orangeburg County, South Carolina, on the Eighth Day of March, 2011.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

DATE: November 30, 2011

Harry A. Walker
(MRS.) HARRY A. WALKER

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ORANGEBURG)
)
 John Allen Randolph, Jr., #338722,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

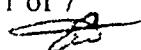
2010-CP-38-0932

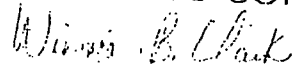
2011 JUL 18 P 2 32
 FILED FOR RECORD
 WILLIAM B. CLARK
 CLERK OF COURT
 ORANGEBURG COUNTY, SC

ORDER OF DISMISSAL

This matter comes before the Court by way of an Application for Post-Conviction Relief filed June 29, 2010. An evidentiary hearing into the matter was convened on March 8, 2011, at the Orangeburg County Courthouse. The Applicant was present at the hearing and was represented by James B. Jackson, Esquire. The Respondent was represented by Mary S. Williams of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Also testifying were Kelly Burbage, Esquire, ("Solicitor") and Carl Grant, Esquire ("Counsel"). This Court had before it the records of the Orangeburg County Clerk of Court and the Applicant's records from the South Carolina Department of Corrections. Pursuant to a letter from court reporter Harry A. Walker dated September 24, 2010, the court reporter was unable to locate her records from the Applicant's plea. Therefore, the parties reconstructed the guilty plea record. While the absence of a transcript is always of concern to the court, I find that the testimony developed at PCR hearing was sufficient to permit this court's review.

1 of 7


ATTEST: TRUE COPY

 CLERK OF COURT
 ORANGEBURG COUNTY, SC

PROCEDURAL HISTORY

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court. The Applicant was indicted for Trafficking in Cocaine (100-200 grams) (2009-GS-38-0767), Unlawful Carrying of Pistol (2009-GS-38-0768), Trafficking in Methamphetamine or Cocaine Base (10-28 grams) (2009-GS-38-0766), Possession with Intent to Distribute ("PWID") Marijuana (2009-GS-38-0770). Carl Grant, Esquire, represented him. On January 4, 2010, the Applicant pled guilty. He was sentenced by the Honorable James C. Williams, Jr. to eight (8) years for Trafficking in Cocaine (28-100 grams), to one (1) year for Unlawful Carrying of a Pistol, to eight (8) years for Trafficking in Cocaine Base (10-28 grams), and to five (5) years for PWID Marijuana.¹ Applicant did not appeal his conviction and sentence.

In his application for post-conviction relief (PCR), Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. "Counsel failed to [undergo] a thorough investigation on the appellant's case."
2. "Denial of right to direct appeal after imposition of time sentence."
 - a. "Counsel failed to explain appeal process."
3. "Violation of due process of law with process of criminal indictment."
 - a. "Due process Violation: appellant did not receive all of Rule5 motion of discovery."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony

¹ According to Clerk's records, four (4) additional charges of PWID within Proximity of a School or Park, one charge of Possession of Cocaine, and a charge of Unlawful Pistol were dismissed pursuant to the plea.

accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80.

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland, supra). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at

117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland). With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

Failure to Investigate

Applicant testified that he met with Counsel two (2) or three (3) times and that he spoke with Counsel by telephone two (2) or three (3) times. Applicant stated that he discussed with Counsel his right to a jury trial. He also discussed aspects of the case he felt were important such as the failure of the officers to read his Miranda rights. Applicant stated that he asked for Counsel's opinion regarding trial; Applicant did not like Counsel's answer and chose to plead guilty. Applicant was gravely concerned with the possibility of a lengthy sentence if convicted at trial. Applicant stated that had been a risk he did not want to take.

Counsel reiterated Applicant's grave concern that he faced a minimum of twenty-five (25) years if convicted at trial. Counsel stated that he was retained on February 24, 2009. Counsel stated that his practice is to meet with a new client to discuss the client's version of facts. Counsel stated that he provides discovery to his clients upon receipt so that they may review the evidence and present questions and concerns. Counsel reviewed his file and noted numerous meetings with Applicant. Counsel stated that the decision to plead guilty was Applicant's, and he made sure that Applicant made an informed decision. Counsel explained that pre-trial motions to suppress evidence

could be made, but if unsuccessful Applicant risked a twenty-five (25) year minimum sentence. Counsel discussed the police report and the consent to search. Based on Applicant's trepidation with the lengthy sentence, Counsel engaged in plea negotiations, highlighting positive aspects such as Applicant's lack of criminal record and prior military service. The eight (8) year recommendation was the best deal he was able to negotiate. The solicitor further noted that trial was not imminent.

I find that counsel's performance was not deficient under these circumstances. Applicant, having discussed the possibility of a jury trial with Counsel, freely sought to pursue an advantageous plea offer that would minimize his sentence exposure. I further find that Applicant has failed to demonstrate what additional investigation would have yielded and that any such evidence would have affected his decision to plead guilty, especially given his concern with the potential sentence. See Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998) (no prejudice where claim of failure to investigate is supported only by mere speculation as to the result). For these reasons, I find that counsel was not ineffective with regard to his investigation.

Direct Appeal

Applicant further asserts that Counsel's failure to advise him regarding a direct appeal constitutes ineffective assistance of counsel. Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal, or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029 (2000). Applicant testified that Counsel did not consult with him about an appeal and that he later attempted to contact Counsel about an appeal. Counsel, however, testified that he informed Applicant about the ten (10)

day window in which to file an appeal, noting that there was no reason to appeal where Applicant received the beneficial sentence. Counsel stated that Applicant gave no indication that he wanted to appeal. I find Counsel's testimony to be credible. The plea offer was for eight (8) years, and he in fact received an eight (8) year sentence. There is no evidence that any nonfrivolous appealable issue was raised during the plea. Under these circumstances, I find Counsel's failure to consult with Applicant about an appeal in this case not unreasonable. Therefore, I find that Applicant has failed to carry his burden of showing that he is entitled to a belated direct appeal.

Other Allegations

No other allegations were raised at the PCR hearing. Therefore, any additional allegations are deemed waived because no evidence was presented.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court advises Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order to secure the appropriate appellate review. His attention is also directed to South Carolina Appellate Court Rule 227 for appropriate procedures after notice has been timely filed.


IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be DENIED

AND DISMISSED WITH PREJUDICE; and

- 2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 8th day of July, 2011.



EDGAR W. DICKSON
 Presiding Judge
 First Judicial Circuit

Orangeburg, South Carolina.



ARREST WARRANT

M-211202

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

THE STATE

against

John Allen Randolph, Jr

Address:

Phone: SSN: Sex: M Race: B Height: 6 3 Weight: 165

DL State: SC DL #: DOB: 1/21/1983 Agency ORI #: SC0380000

Prosecuting Agency: Orangeburg County Sheriff

Prosecuting Officer: Martin Journey - 0771

Offense: Drugs / Possession With Intent to Distribute Methylenedioxymethamphetamine

Offense Code: 0107

Code/Ordinance Sec: 44-53-0445(B)(1)

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant John Allen Randolph Jr on 2-5-09

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions 190 Gibson Street P. O. Box 9000 Orangeburg, SC 29116

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

Personally appeared before me the affiant Martin Journey who

being duly sworn deposes and says that defendant John Allen Randolph, Jr

did within this county and state on or about 02/04/2009 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Orangeburg)

in the following particulars:

DESCRIPTION OF OFFENSE Drugs / Possession With Intent to Distribute Methylenedioxymethamphetamine (MDMA/Ecstasy) in Proximity of a School

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 2-4-09 at approximately 10:52 am, one John Allen Randolph, Jr., did knowingly and intentionally possess 42 Ecstasy pills, a Schedule I Controlled Substance. This violation took place at Orangeburg. This affiant knows this to be true because during an investigation of illegal drug activity, the defendant gave the affiant a signed voluntary consent to search the vehicle he was driving and the affiant found the Ecstasy pills in the vehicle. This location is within one half mile of Orangeburg Calhoun Technical College. The affiant is prepared to testify. This being in violation of the South Carolina Code of Laws, 1976, as amended.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

Affiant's Address P. O. Box 9000

Orangeburg, SC 29116-

Affiant's Telephone (803)531-4647

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 2/4/2009 defendant John Allen Randolph, Jr

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Orangeburg) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Possession With Intent to Distribute Methylenedioxymethamphetamine (MDMA/Ecstasy) in Proximity of a School

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable Sworn to and subscribed before me

on 02/05/2009

Judge's Address Post Office Box 9000 Orangeburg, SC 29116-9000

Judge's Telephone (803)533-5879

Issuing Court: Magistrate Municipal Circuit

Judge Code: 5721

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Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

AFFIDAVIT

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ARREST WARRANT

M-211203

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

THE STATE

against

John Allen Randolph, Jr

Address:

Phone: SSN: Sex: M Race: B Height: 6 3 Weight: 165

DL State: SC DL #: DOB: 1/21/1983 Agency ORI #: SC0380000

Prosecuting Agency: Orangeburg County Sheriff

Prosecuting Officer: Martin Journey - 0771

Offense: Drugs / Trafficking Crack Cocaine in Proximity of a School

Offense Code: 0108

Code/Ordinance Sec: 44-53-0445(B)(2)

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant John Allen Randolph, Jr. on 2-5-09

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions 190 Gibson Street P. O. Box 9000 Orangeburg, SC 29116

ORIGINAL

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STATE OF SOUTH CAROLINA)

County/ Municipality of)

Orangeburg)

Personally appeared before me the affiant Martin Journey who

being duly sworn deposes and says that defendant John Allen Randolph, Jr

did within this county and state on or about 02/04/2009 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Orangeburg)

in the following particulars:

DESCRIPTION OF OFFENSE Drugs / Trafficking Crack Cocaine in Proximity of a School

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 2-4-09 at approximately 10:52 am, one John Allen Randolph, Jr., did knowingly and intentionally possess more than 10 grams of crack cocaine, a Schedule II Controlled Substance. This violation took place at Orangeburg. This affiant knows this to be true because during an investigation of illegal drug activity, the defendant gave the affiant a signed voluntary consent to search the vehicle he was driving and the affiant found approximately 14 grams of crack cocaine in the vehicle. This location is within one half mile of Orangeburg Calhoun Technical College. The affiant is prepared to testify. This being in violation of the South Carolina Code of Laws, 1976, as amended.

Signature of Affiant

STATE OF SOUTH CAROLINA)

County/ Municipality of)

Orangeburg)

Affiant's Address P. O. Box 9000

Orangeburg, SC 29116-

Affiant's Telephone (803)531-4647

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 2/4/2009 defendant John Allen Randolph, Jr

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Orangeburg) as set forth below.

DESCRIPTION OF OFFENSE: Drugs / Trafficking Crack Cocaine in Proximity of a School

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable Sworn to and subscribed before me

on 02/05/2009

Signature of Judge Peggy D Doremus (L.S.)

Judge's Address Post Office Box 9000 Orangeburg, SC 29116-9000

Judge's Telephone (803)533-5879

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

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Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

ARREST WARRANT

M-211205

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

THE STATE

against

John Allen Randolph, Jr

Address: _____

Phone: _____ SSN: _____
Sex: M Race: B Height: 6 3 Weight: 165

DL State: SC DL #: _____

DOB: 1/21/1983 Agency ORI #: SC0380000

Prosecuting Agency: Orangeburg County Sheriff

Prosecuting Officer: Martin Journey - 0771

Offense: Drugs / Possession With Intent to Distribute Methylenedioxymethamphetamine

Offense Code: 3011

Code/Ordinance Sec: 44-53-0370 (D)(3)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant John Allen Randolph Jr on 2-5-09

[Signature]
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
190 Gibson Street
P. O. Box 9000
Orangeburg, SC 29116

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

Personally appeared before me the affiant Martin Journey who

being duly sworn deposes and says that defendant John Allen Randolph, Jr

did within this county and state on or about 02/04/2009 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Orangeburg)

in the following particulars:

DESCRIPTION OF OFFENSE Drugs / Possession With Intent to Distribute Methylenedioxymethamphetamine (MDMA/Ecstasy)

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 2-4-09 at approximately 10:52 am, one John Allen Randolph, Jr., did knowingly and intentionally possess 42 Ecstasy pills, a Schedule I Controlled Substance. This violation took place at Orangeburg. This affiant knows this to be true because during an investigation of illegal drug activity, the defendant gave the affiant a signed voluntary consent to search the vehicle he was driving and the affiant found the Ecstasy pills in the vehicle. The affiant is prepared to testify. This being in violation of the South Carolina Code of Laws, 1976, as amended.

Signature of Affiant

[Signature]

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

Affiant's Address P. O. Box 9000

Orangeburg, SC 29116-

Affiant's Telephone (803)531-4647

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 2/4/2009 defendant John Allen Randolph, Jr

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Orangeburg) as set forth below.

DESCRIPTION OF OFFENSE: Drugs / Possession With Intent to Distribute Methylenedioxymethamphetamine (MDMA/Ecstasy)

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable
Sworn to and subscribed before me

on 02/05/2009

[Signature]
Signature of Issuing Judge
Peggy D Doremus

Judge's Address Post Office Box 9000

Orangeburg, SC 29116-9000

Judge's Telephone (803)533-5879

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

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ARREST WARRANT

M-211207

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

THE STATE

against

John Allen Randolph, Jr

Address:

Phone: _____ SSN: _____
Sex: M Race: B Height: 6 3 Weight: 165

DL State: SC DL #: _____

DOB: 1/21/1983 Agency ORI #: SC0380000

Prosecuting Agency: Orangeburg County Sheriff

Prosecuting Officer: Martin Journey - 0771

Offense: Drugs / Trafficking Cocaine Within Proximity of a School

Offense Code: 0107

Code/Ordinance Sec: 44-53-0445(B)(1)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant John Allen Randolph on 2-5-09

Jana S. Gue
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
190 Gibson Street
P. O. Box 9000
Orangeburg, SC 29116

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STATE OF SOUTH CAROLINA)

County/ Municipality of)

Orangeburg)

Personally appeared before me the affiant Martin Journey who

being duly sworn deposes and says that defendant John Allen Randolph, Jr

did within this county and state on or about 02/04/2009 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Orangeburg)

in the following particulars:

DESCRIPTION OF OFFENSE Drugs / Trafficking Cocaine Within Proximity of a School

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 2-4-09 at approximately 10:52 am, one John Allen Randolph, Jr., did knowingly and intentionally possess more than 10 grams of cocaine, a Schedule II Controlled Substance. This violation took place at Orangeburg. This affiant knows this to be true because during an investigation of illegal drug activity, the defendant gave the affiant a signed voluntary consent to search the vehicle he was driving and the affiant found approximately 140 grams of cocaine in the vehicle. This location is within one half mile of Orangeburg Calhoun Technical College. The affiant is prepared to testify. This being in violation of the South Carolina Code of Laws, 1976, as amended.

Signature of Affiant

STATE OF SOUTH CAROLINA)

County/ Municipality of)

Orangeburg)

Affiant's Address P. O. Box 9000

Orangeburg, SC 29116-

Affiant's Telephone (803)531-4647

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 2/4/2009 defendant John Allen Randolph, Jr

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Orangeburg) as set forth below.

DESCRIPTION OF OFFENSE: Drugs / Trafficking Cocaine Within Proximity of a School

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable
Sworn to and subscribed before me)

on 02/05/2009)

Peggy D. Doremus (D.S.)
Signature of Issuing Judge

Peggy D Doremus)

Judge Code: 5721)

Judge's Address Post Office Box 9000

Orangeburg, SC 29116-9000

Judge's Telephone (803)533-5879

Issuing Court: Magistrate Municipal Circuit

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Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

2009 FEB 1

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ARREST WARRANT

M-211208

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

THE STATE

against

John Allen Randolph, Jr

Address:

Phone: SSN: Sex: M Race: B Height: 6 3 Weight: 165

DL State: SC DL #: DOB: 1/21/1983 Agency ORI #: SC0380000

Prosecuting Agency: Orangeburg County Sheriff

Prosecuting Officer: Martin Journey - 0771

Offense: Drugs / Trafficking in ice, crank or crack - 10 g or more, but less than 28 g - 1st offense

Offense Code: 0450

Code/Ordinance Sec: 44-53-0375(C)(1)

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant John Allen Randolph, Jr on 2-5-09

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO: General Sessions 190 Gibson Street P. O. Box 9000 Orangeburg, SC 29116

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STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

Personally appeared before me the affiant Martin Journey who

being duly sworn deposes and says that defendant John Allen Randolph, Jr

did within this county and state on or about 02/04/2009 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Orangeburg)

in the following particulars:

DESCRIPTION OF OFFENSE Drugs / Trafficking in ice, crank or crack - 10 g or more, but less than 28 g - 1st offense

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 2-4-09 at approximately 10:52 am, one John Allen Randolph, Jr., did knowingly and intentionally possess more than 10 grams of crack cocaine, a Schedule II Controlled Substance. This violation took place at Orangeburg. This affiant knows this to be true because during an investigation of illegal drug activity, the defendant gave me the affiant a signed voluntary consent to search the vehicle he was driving and the affiant found approximately 14 grams of crack cocaine in the vehicle. The affiant is prepared to testify. This being in violation of the South Carolina Code of Laws, 1976, as amended.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

Affiant's Address P. O. Box 9000

Orangeburg, SC 29116

Affiant's Telephone (803)531-4647

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 2/4/2009 defendant John Allen Randolph, Jr

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Orangeburg) as set forth below.

DESCRIPTION OF OFFENSE: Drugs / Trafficking in ice, crank or crack - 10 g or more, but less than 28 g - 1st offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 02/05/2009

Signature of Issuing Judge Peggy D Doremus (L.S.)

Judge's Address Post Office Box 9000 Orangeburg, SC 29116-9000

Judge's Telephone (803)533-5879

Issuing Court: Magistrate Municipal Circuit

ARREST WARRANT

M-211209

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

THE STATE

against

John Allen Randolph, Jr

Address:

Phone: _____ SSN: _____
Sex: M Race: B Height: 6 3 Weight: 165

DL State: SC DL #: _____

DOB: 1/21/1983 Agency ORI #: SC0380000

Prosecuting Agency: Orangeburg County Sheriff

Prosecuting Officer: Martin Journey - 0771

Offense: Drugs / Trafficking in cocaine, 100 g or more, but less than 200 g

Offense Code: 0280

Code/Ordinance Sec: 44-53-0370(e)(2)

This warrant is **CERTIFIED FOR SERVICE** in the
 County/ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant John Allen Randolph Jr.
on 2-5-09

[Signature]
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
190 Gibson Street
P. O. Box 9000
Orangeburg, SC 29116

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant Martin Journey who

being duly sworn deposes and says that defendant John Allen Randolph, Jr

did within this county and state on or about 02/04/2009 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Orangeburg)

in the following particulars:

DESCRIPTION OF OFFENSE Drugs / Trafficking in cocaine, 100 g or more, but less than 200 g

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 2-4-09 at approximately 10:52 am, one John Allen Randolph, Jr., did knowingly and intentionally possess more than 10 grams of cocaine, a Schedule II Controlled Substance. This violation took place at Orangeburg. This affiant knows this to be true because during an investigation of illegal drug activity, the defendant gave the affiant a signed voluntary consent to search the vehicle he was driving and the affiant found approximately 140 grams of cocaine in the vehicle. The affiant is prepared to testify. This being in violation of the South Carolina Code of Laws, 1976, as amended.

Signature of Affiant

[Signature]

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

Affiant's Address P. O. Box 9000

Orangeburg, SC 29116-

Affiant's Telephone (803)531-4647

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 2/4/2009 defendant John Allen Randolph, Jr

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Orangeburg) as set forth below.

DESCRIPTION OF OFFENSE: Drugs / Trafficking in cocaine, 100 g or more, but less than 200 g

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable
Sworn to and subscribed before me

on 02/05/2009

[Signature]
Signature of Issuing Judge

Peggy D Doremus

Judge Code: 5721

Judge's Address Post Office Box 9000

Orangeburg, SC 29116-9000

Judge's Telephone (803)533-5879

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

88

89

ARREST WARRANT

M-211210

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

THE STATE

against

John Allen Randolph, Jr

Address:

Phone: _____ SSN: _____
Sex: M Race: B Height: 6 3 Weight: 165

DL State: SC DL #: _____

DOB: 1/21/1983 Agency ORI #: SC0380000

Prosecuting Agency: Orangeburg County Sheriff

Prosecuting Officer: Martin Journey - 0771

Offense: Weapons / Unlawful carrying of handgun

Offense Code: 0044

Code/Ordinance Sec: 16-23-0020, 0050

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant John Allen Randolph, Jr on 2-5-09

[Signature]
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
190 Gibson Street
P. O. Box 9000
Orangeburg, SC 29116

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)

County/ Municipality of)

Orangeburg)

Personally appeared before me the affiant Martin Journey who

being duly sworn deposes and says that defendant John Allen Randolph, Jr

did within this county and state on or about 02/04/2009 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Orangeburg)

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Unlawful carrying of handgun

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 2-4-09 at approximately 10:52 am, one John Allen Randolph, Jr., did knowingly and intentionally possess a handgun unlawfully. This violation took place at W. Orangeburg. This affiant knows this to be true because during an investigation of illegal drug activity, the defendant gave the affiant a signed voluntary consent to search the vehicle he was driving and the affiant found a loaded Colt .357 Magnum CTG Model # Trooper MK III Serial # 45266J handgun under the driver's seat. The affiant is prepared to testify. This being in violation of the South Carolina Code of Laws, 1976, as amended.

Signature of Affiant

[Signature]

STATE OF SOUTH CAROLINA)

County/ Municipality of)

Orangeburg)

Affiant's Address P. O. Box 9000

Orangeburg, SC 29116

Affiant's Telephone (803)531-4647

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 2/4/2009 defendant John Allen Randolph, Jr

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Orangeburg) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Unlawful carrying of handgun

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)

on 02/05/2009)

[Signature] (L.S.))
Signature of Issuing Judge

Peggy D Doremus)

Judge Code: 5721)

Judge's Address Post Office Box 9000

Orangeburg, SC 29116-9000

Judge's Telephone (803)533-5879

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

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ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

ORIGINAL

AFFIDAVIT

2009 FEB 11

ARREST WARRANT

M-211212

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

THE STATE

against

John Allen Randolph, Jr

Address:

Phone: SSN: Sex: M Race: B Height: 6 3 Weight: 165

DL State: SC DL #: DOB: 1/21/1983 Agency ORI #: SC0380000

Prosecuting Agency: Orangeburg County Sheriff

Prosecuting Officer: Martin Journey - 0771

Offense: Weapons / Unlawful Possession of a Handgun by a

Convicted Felon

Offense Code: 2364

Code/Ordinance Sec: 16-23-0030, 0050

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant John Allen Randolph Jr on 2-5-09

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions 190 Gibson Street P. O. Box 9000 Orangeburg, SC 29116

ORIGINAL

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STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

Personally appeared before me the affiant Martin Journey who

being duly sworn deposes and says that defendant John Allen Randolph, Jr

did within this county and state on or about 02/04/2009 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Orangeburg)

in the following particulars:

DESCRIPTION OF OFFENSE Weapons / Unlawful Possession of a Handgun by a Convicted Felon

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 2-4-09 at approximately 10:52 am, one John Allen Randolph, Jr., did knowingly and intentionally possess a handgun unlawfully. This violation took place at Orangeburg. This affiant knows this to be true because during an investigation of illegal drug activity, the defendant gave the affiant a signed voluntary consent to search the vehicle he was driving and the affiant found a loaded Colt .357 Magnum CTG Model # Trooper MK III Serial # 45266J handgun under the driver's seat. A check of defendant's criminal history revealed that the defendant is a convicted felon and is prohibited to possess a handgun. The affiant is prepared to testify. This being in violation of the SC Code of Laws, 1976, as amended.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

Affiant's Address P. O. Box 9000

Orangeburg, SC 29116-

Affiant's Telephone (803)531-4647

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 2/4/2009 defendant John Allen Randolph, Jr

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Orangeburg) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Unlawful Possession of a Handgun by a Convicted Felon

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable Sworn to and subscribed before me

on 02/05/2009

Signature of Issuing Judge Peggy D Doremus (L.S.) Judge's Address Post Office Box 9000 Orangeburg, SC 29116-9000

Judge's Telephone (803)533-5879

Issuing Court: Magistrate Municipal Circuit

Judge Code: 5721

ORIGINAL

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ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

2009

ARRESI WARRANI

M-211215

STATE OF SOUTH CAROLINA

County/ Municipality of
Orangeburg

THE STATE
against
John Allen Randolph, Jr

Address: _____

Phone: _____ SSN: _____
Sex: M Race: B Height: 6 3 Weight: 165
DL State: SC DL #: _____
DOB: 1/21/1983 Agency ORI #: SC0380000
Prosecuting Agency: Orangeburg County Sheriff
Prosecuting Officer: Martin Journey - 0771
Offense: Drugs / Possession With Intent to Distribute Marijuana
Offense Code: 0186
Code/Ordinance Sec: 44-53-0370(b)(2)

This warrant is **CERTIFIED FOR SERVICE** in the
 County/ Municipality of _____

The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge _____

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant John Allen Randolph Jr.
on 2-5-09

Jane S. [Signature]
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
190 Gibson Street
P. O. Box 9000
Orangeburg, SC 29116

ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
Orangeburg)

AFFIDAVIT ORIGINAL Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant Martin Journey who
being duly sworn deposes and says that defendant John Allen Randolph, Jr
did within this county and state on or about 02/04/2009 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of Orangeburg)
in the following particulars:

DESCRIPTION OF OFFENSE Drugs / Possession With Intent to Distribute Marijuana

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 2-4-09 at approximately 10:52 am, one John Allen Randolph, Jr., did knowingly and intentionally possess over 120 grams of marijuana, a Schedule I Controlled Substance. This violation took place at Orangeburg. This affiant knows this to be true because during an investigation of illegal drug activity, the defendant gave the affiant a signed voluntary consent to search the vehicle he was driving and the affiant found the quantity of marijuana in the vehicle. The affiant is prepared to testify. This being in violation of the South Carolina Code of Laws, 1976, as amended.

Signature of Affiant [Signature]

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
Orangeburg)

Affiant's Address P. O. Box 9000
Orangeburg, SC 29116-

Affiant's Telephone (803)531-4647

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on or about 2/4/2009 defendant John Allen Randolph, Jr.
did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of Orangeburg) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Possession With Intent to Distribute Marijuana

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable
Sworn to and subscribed before me)
on 02/05/2009)
Peggy D. Doremus (L.S.))
Signature of Issuing Judge)
Peggy D Doremus)
Judge Code: 5721)

Judge's Address Post Office Box 9000
Orangeburg, SC 29116-9000

Judge's Telephone (803)533-5879

Issuing Court: Magistrate Municipal Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ORANGEBURG)

INDICTMENT
 2009GS38-0766

At a Court of General Sessions, convened on September 9, 2009 the Grand Jurors of Orangeburg County present upon their oath:

**TRAFFICKING IN METH. OR COCAINE BASE - 10 G OR MORE, BUT LESS
 THAN 28 G-1ST OFFENSE**

That in Orangeburg County, South Carolina, on or about February 4, 2009, the Defendant, John Allen Randolph Jr., did knowingly sell, manufacture, cultivate, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of approximately 14 grams of crack cocaine. This offense in violation of Section 44-53-375 of the South Carolina Code of Laws, as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Kelley H. Burbage

Kelley H. Burbage, Solicitor

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ORANGEBURG)


INDICTMENT
 2009GS38-0767

At a Court of General Sessions, convened on September 9, 2009 the Grand Jurors of Orangeburg County present upon their oath:

TRAFFICKING IN COCAINE, 100 G OR MORE, BUT LESS THAN 200 G

That in Orangeburg County, South Carolina, on or about February 4, 2009, the Defendant, John Allen Randolph Jr., did knowingly sell, manufacture, cultivate, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of approximately 140 grams of cocaine. This offense in violation of Section 44-53-370 of the South Carolina Code of Laws, as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 Kelley H. Burbage, Solicitor

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ORANGEBURG)

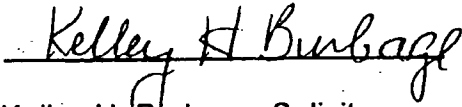
INDICTMENT
 2009GS38-0770

At a Court of General Sessions, convened on June 1, 2009 the Grand Jurors of Orangeburg County present upon their oath:

MANUF., POSS. OF OTHER SUB. IN SCH. I, II, III OR FLUNITRAZE

That in Orangeburg County, South Carolina, on or about February 4, 2009, the Defendant, John Allen Randolph Jr., did manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt, or conspire to do the same, or possess with the intent to distribute, dispense, or deliver, a quantity of marijuana, a Schedule III or non-narcotic Schedule I or II controlled substance. This offense in violation of Section 44-53-370 of the South Carolina Code of Laws, as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 Kelley H. Burbage, Solicitor

96

General Sessions Tracking Sheet Indictment # 0000GS38

Name: Randolph, John Allen Jr

AKA:

Addr:

SSN#

Sex: M Race: B

DOB: 01/21/1983

DL#

Warrant/Ticket # M211203

Date of Arrest: 02/05/2009

Date of Offense: 02/04/2009

Date Rcv by Clerk 02/27/2009

Magistrate: Clerk Of Court C P, G-S, And Family Court

Counts: Code: 0108/Drugs / Distribute, sell, purchase, manuf. crack cocaine, or pwid, near school

Indictment # 0000GS38

Disposition Information

1. Transmitted to SOL & SCCA:
2. Disp Received by Clerk:
3. Date of Disposition:

- Disposition
- 1. Guilty plea
 - 2. Trial -- guilty
 - 3. Trial -- not guilty
 - 4. Dism/Not Pros/Pros Ended
 - 5. Judicial Commitment
 - 6. Judicial Dismissal
 - 7. Remanded
 - 8. Dismissed at Prelim
 - 8. No Bill
 - 9. Failure to Appear
 - 10. Other

Explain: Pled Guilty to other charge

Explain: _____

Explain: _____

Explain: _____

Explain: _____

Judge: _____

Court Reporter: _____

Defense Atty: _____

Solicitor: Kelley H Bumbage

Counts: _____ Code: _____

Sentence: _____

~~MMZAB~~
1-4-201

General Sessions Tracking Sheet
Indictment # 0000GS38

Name: Randolph, John Allen Jr

Warrant/Ticket # M211205

AKA:

Date of Arrest: 02/05/2009

Addr:

Date of Offense: 02/04/2009

Date Rcv by Clerk 02/27/2009

Magistrate: Clerk Of Court C P, G S, And Family Court

SSN#

Counts: Code: 3011/Drugs / possession of cocaine, 1s offense

Sex: M Race: B

DOB: 01/21/1983

DL#

Indictment # 0000GS38

Disposition Information

1. Transmitted to SOL & SCCA:
2. Disp Received by Clerk:
3. Date of Disposition:

- Disposition
- 1. Guilty plea
 - 2. Trial -- guilty
 - 3. Trial -- not guilty
 - 4. Dism/Not Pros/Pros Ended
 - 5. Judicial Commitment
 - 6. Judicial Dismissal
 - 7. Remanded
 - 8. Dismissed at Prelim
 - 8. No Bill
 - 9. Failure to Appear
 - 10. Other

Explain: Pled Guilty to other charge
Explain: _____
Explain: _____
Explain: _____
Explain: _____

Judge: _____

Court Reporter: _____

Defense Atty: _____

Solicitor: Kelley H Bunkage
1-4-09 2010

Counts: _____ Code: _____

Sentence: _____

General Sessions Tracking Sheet Indictment # 0000GS38

Name: Randolph, John Allen Jr

AKA:

Addr:

SSN#

Sex: M Race: B

DOB: 01/21/1983

DL#

Warrant/Ticket # M211206

Date of Arrest: 02/05/2009

Date of Offense: 02/04/2009

Date Rcv by Clerk 02/27/2009

Magistrate: Doremus, Peggy D

Counts: Code: 0107/Drugs / Distribute, sell, purchase, manuf. drug other than crack cocaine, or pwid, near school

Indictment # 0000GS38

Disposition Information

1. Transmitted to SOL & SCCA:
2. Disp Received by Clerk:
3. Date of Disposition:

- Disposition
- 1. Guilty plea
 - 2. Trial -- guilty
 - 3. Trial -- not guilty
 - 4. Dism/Not Pros/Pros Ended
 - 5. Judicial Commitment
 - 6. Judicial Dismissal
 - 7. Remanded
 - 8. Dismissed at Prelim
 - 8. No Bill
 - 9. Failure to Appear
 - 10. Other

Explain: Pled Guilty to other charge

Explain: _____

Explain: _____

Explain: _____

Explain: _____

Explain: _____

Judge: _____

Court Reporter: _____

Defense Atty: _____

Solicitor: Kelley H Burbage
1-42010

Counts: _____ Code: _____

Sentence: _____

General Sessions Tracking Sheet
Indictment # 0000GS38

Name: Randolph, John Allen Jr

AKA:

Addr:

SSN#

Sex: M Race: B

DOB: 01/21/1983

DL#

Warrant/Ticket # M211207

Date of Arrest: 02/05/2009

Date of Offense: 02/04/2009

Date Rev by Clerk 02/27/2009

Magistrate: Doremus, Peggy D

Counts: Code: 0107/Drugs / Distribute, sell, purchase, manuf. drug other than crack cocaine, or pwid, near school

Indictment # 0000GS38

Disposition Information

- 1. Transmitted to SOL & SCCA:
- 2. Disp Received by Clerk:
- 3. Date of Disposition:

- Disposition 1. Guilty plea
- 2. Trial -- guilty
- 3. Trial -- not guilty
- 4. Dism/Not Pros/Pros Ended
- 5. Judicial Commitment
- 6. Judicial Dismissal
- 7. Remanded
- 8. Dismissed at Prelim
- 8. No Bill
- 9. Failure to Appear
- 10. Other

Explain: Pled Guilty to other charge
Explain: _____
Explain: _____
Explain: _____
Explain: _____
Explain: _____

Judge: _____

Court Reporter: _____

Defense Atty: _____

Solicitor: Kelley H Busbag
1-4-2010

Counts: _____ Code: _____

Sentence: _____

100

General Sessions Tracking Sheet
Indictment # 0000GS38

ENTERED

Name: Randolph, John Allen Jr

Warrant/Ticket # M211202

AKA:

Date of Arrest: 02/05/2009

Addr:

Date of Offense: 02/04/2009

Date Rcv by Clerk 02/27/2009

Magistrate: Doremus, Peggy D

SSN#

Counts: Code: 0107/Drugs / Distribute, sell, purchase, manuf. drug other than crack cocaine, or pwid, near school

Sex: M Race: B

DOB: 01/21/1983

DL#

Indictment # 0000GS38

Disposition Information

- 1. Transmitted to SOL & SCCA:
- 2. Disp Received by Clerk:
- 3. Date of Disposition:

- Disposition
- 1. Guilty plea
 - 2. Trial -- guilty
 - 3. Trial -- not guilty
 - 4. Dism/Not Pros/Pros Ended
 - 5. Judicial Commitment
 - 6. Judicial Dismissal
 - 7. Remanded
 - 8. Dismissed at Prelim
 - 8. No Bill
 - 9. Failure to Appear
 - 10. Other

Explain: Pled guilty to other charge

Explain: _____

Explain: _____

Explain: _____

Explain: _____

Explain: _____

Judge: _____

Court Reporter: _____

Defense Atty: _____

Solicitor: Kelley H Burbage
~~1-4-201~~

Counts: _____ Code: _____

Sentence: _____

FA:
4-20-09

General Sessions Tracking Sheet
Indictment # 0000GS38

Name: Randolph, John Alien Jr

Warrant/Ticket # M211212

AKA:

Date of Arrest: 02/05/2009

Addr:

Date of Offense: 02/04/2009

Date Rcv by Clerk 02/27/2009

Magistrate: Doremus, Peggy D

SSN#

Counts: Code: 2364/Weapons / Sale or delivery of
pistol to, and possession by, certain persons
unlawful, stolen pistol

Sex: M Race: B

DOB: 01/21/1983

DL#

Indictment # 0000GS38

Disposition Information

1. Transmitted to SOL & SCCA:
2. Disp Received by Clerk:
3. Date of Disposition:

- Disposition
- 1. Guilty plea
 - 2. Trial -- guilty
 - 3. Trial -- not guilty
 - 4. Dism/Not Pros/Pros Ended
 - 5. Judicial Commitment
 - 6. Judicial Dismissal
 - 7. Remanded
 - 8. Dismissed at Prelim
 - 8. No Bill
 - 9. Failure to Appear
 - 10. Other

Explain: Pled guilty to other charge
Explain: _____
Explain: _____
Explain: _____
Explain: _____

Judge: _____

Court Reporter: _____

Defense Atty: _____

Solicitor: Kelley H Busbaga

Counts: _____ Code: _____

1-4-2010

Sentence: _____

0-10 yrs and \$25,000

STATE OF SOUTH CAROLINA

COUNTY OF ORANBURG STATE

VS.

JOHN ALLEN RANDOLPH JR

AKA: Race: 13 Sex: m Age: DOB: 1-21-83 SS#: Address: City, State, Zip: DL# SID#

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: TRAFFICKING COCAINE BASE (10-28 grams) 1st offense In violation of § 44-53-375(C) of the S.C. Code of Laws, bearing CDR Code # 0450

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury, Negotiated Sentence, Recommendation by the State.

ATTEST: Kelley H. Burdage 70512 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar # 222

WHEREFORE, the Defendant is committed to the State Department of Corrections for a determinate term of 8 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment of \$ plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-85 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS: RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED Attend Voc. Rehab. Or Job Corp.

Recipient: May serve W/E beginning Substance Abuse Counseling

Table with 3 columns: Description, Amount, Total. Includes items like §14-1-206 (Assessments 107.5%), §14-1-211 (A)(1)(Conv. Surcharge) \$100, §14-1-211 (A)(2)(DUI Surcharge) \$100, §56-5-2995 (DUI Assessment) \$12, §56-1-286 (DUI Breath Test) \$25, §47.12 (Public Def/Prob) \$500, §14-1-212 (Law Enforce. Funding) \$25, §14-1-213 (Drug Court Surcharge) \$100, §50-21-114 (BUI Breath Test Fee) \$50, §56-5-2942(J) (Vehicle Assessment) \$40/ea, §90.7(SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$5. TOTAL \$236.90

Random Drug/Alcohol Testing Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ Beginning \$ Paid to Public Defender Fund

Other:

Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge Judge Code: Sentence Date 1-4-10

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009 -GS- 38 - 0

AW#: m 211208 Date of Offense: February 4, 2009 S.C. Code §: 44-53-375(C) CDR Code #: 0450

SENTENCE SHEET

Clerk of Court/Deputy Clerk Court Reporter: Marion L. Edgemong Harry Dost Walker

7-25 yr and \$50,000

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG
STATE

VS.
JOHN ALLEN RANDOLPH, JR.

AKA: _____
Race: B Sex: M Age: _____
DOB: 1-21-83 SS#: _____
Address: _____
City, State, Zip: _____
DL# _____ SID# _____
*CDL Yes No CMV Yes No Hazmat Yes No

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009 -GS- 38 -07

AW#: m 211209
Date of Offense: February 4, 2009
S.C. Code §: 44-53-370(c)
CDR Code #: 0280

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
TO: TRAFFICKING COCAINE 28-100 grams - 1st offense
In violation of § 44-53-370(c)(2)(b) of the S.C. Code of Laws, bearing CDR Code # 2359
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS \$17-25-45

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State. (defendant's Initials)

ATTEST: Kelley B. Budge 70512 [Signature] 2220
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department
of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____

Total: \$ _____ plus 20% fee: _____ \$ _____
_____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____ May serve W/E beginning _____
Substance Abuse Counseling

*Fine:		\$	
\$14-1-206 (Assessments 107.5%)		\$	
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	100.00
\$56-5-2995 (DUI Assessment)	\$12	\$	
\$56-1-286 (DUI Breath Test)	\$25	\$	
\$47.12 (Public Def/Prob)	\$500	\$	
\$14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
\$14-1-213 (Drug Court Surcharge)	\$100	\$	100.00
\$50-21-114 (BUI Breath Test Fee)	\$50	\$	
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
\$90.7(SCCJA Surcharge)	\$5	\$	5.00
3% to County (if paid in installments)		\$	6.90
TOTAL		\$	236.90

Random Drug/Alcohol Testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel,
\$47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge [Signature]
Judge Code: 0114
Sentence Date 1-14-10

Clerk of Court/Deputy Clerk Marion S. Edgemon
Court Reporter: Harry Dat Walker

1 yr and/or not more than \$1,000.00

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF ORANGEBURG STATE

INDICTMENT/CASE#: 2009 GS-38-0

VS. JOHN ALLEN RANDOLPH, JR.

AW#: M211210

AKA: Race: B Sex: m Age: SS: DOB: 1-21-83

Date of Offense: February 4, 2009

Address: City, State, Zip: DL# SID#

S.C. Code #: 16-23-20 CDR Code #: 0044

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Unlawful carrying of a Pistol

In violation of 16-23-20 of the S.C. Code of Laws, bearing CDR Code # 0044

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS \$17-25-45

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, Negotiated Sentence, Recommendation by the State.

ATTEST: Kelley H. Burdige 70512 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar # 2226

WHEREFORE, the Defendant is committed to the State Department of Corrections for a determinate term of days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$ plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS: RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED Attend Voc. Rehab. Or Job Corp.

Set by SCDPPPS May serve W/E beginning Substance Abuse Counseling

Recipient: Random Drug/Alcohol Testing

*Fine: §14-1-206 (Assessments 107.5%) \$

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$

§56-5-2995 (DUI Assessment) \$12 \$

§56-1-286 (DUI Breath Test) \$25 \$

§47.12 (Public Def/Prob) \$500 \$

§14-1-212 (Law Enforce. Funding) \$25 \$

§14-1-213 (Drug Court Surcharge) \$100 \$25.00

§50-21-114 (BUI Breath Test Fee) \$50 \$

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$

§90.7(SCCJA Surcharge) \$5 \$5.00 3% to County (if paid in installments) \$ 3.90 TOTAL \$ 133.90

Clerk of Court/Deputy Clerk Court Reporter: Marion S. Edgemong Harry Dot Walker

Presiding Judge Judge Code: 0114 Sentence Date: 1-4-10

UP to 5yr
and/or \$5,000.00

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF ORANGEBURG
STATE

INDICTMENT/CASE#: 2009 -GS- 38 - 0

VS.
JOHN ALLEN RANDOLPH, JR.

AW#: M211215
Date of Offense: February 4, 2009
S.C. Code §: 44-53-370(b)(2)
CDR Code #: 0186

AKA:
Race: B Sex: M Age: _____
DOB: 1-21-83 SS#: _____
Address: _____
City, State, Zip: _____
DL# _____ SID# _____
*CDL Yes No CMV Yes No Hazmat Yes No

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
TO: POSSESSION WITH INTENT TO DISTRIBUTE MARIJUANA - 1ST OFF.
In violation of § 44-53-370(b)(2) of the S.C. Code of Laws, bearing CDR Code # 0186
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury. (defendant's initial
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
Kelley H. Burbage 70512 (Solicitor SC Bar # _____) Defendant [Signature] Attorney for Defendant [Signature] SC Bar # 2220

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department
of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED
 Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____ May serve W/E beginning _____
Substance Abuse Counseling

Random Drug/Alcohol Testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel,
§47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge [Signature]
Judge Code: 0114
Sentence Date: 1-4-10

*Fine:		\$	_____
§14-1-206 (Assessments 107.5%)		\$	_____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	<u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	_____
§56-5-2995 (DUI Assessment)	\$12	\$	_____
§56-1-286 (DUI Breath Test)	\$25	\$	_____
§47.12 (Public Def/Prob)	\$500	\$	_____
§14-1-212 (Law Enforce. Funding)	\$25	\$	<u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$100	\$	<u>100.00</u>
§50-21-114 (BUI Breath Test Fee)	\$50	\$	_____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	_____
§90.7(SCCJA Surcharge)	\$5	\$	<u>5.00</u>
3% to County (if paid in installments)		\$	<u>6.90</u>
TOTAL		\$	<u>236.90</u>

Clerk of Court/Deputy Clerk Merion Edgemond
Court Reporter: Larry D. Walker

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

IN THE GENERAL SESSIONS COURT
FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

VS.)

JOHN RANDOLPH JR.,)

DEFENDANT.)

-) WARRANT NUMBERS:
-) M211202 PWID
-) METHYLENEDIOXYMETHAMPHETAMINE
-) M211203 TRAFFICKING CRACK COCAINE IN
-) PROXIMITY OF A SCHOOL
-) M211205 PWID
-) METHYLENEDIOXYMETHAMPHETAMINE
-) M211206 PWID MARIJUANA WITHIN PROXIMITY OF
-) A SCHOOL
-) M211207 TRAFFICKING COCAINE WITHIN
-) PROXIMITY OF A SCHOOL
-) M211208 TRAFFICKING IN ICE, CRANK OR CRACK-
-) 10g OR MORE, BUT LESS THAN 28g 1ST
-) M211209 TRAFFICKING CRACK COCAINE, 100g OR
-) MORE BUT LESS THAN 200g
-) M211210 UNLAWFUL CARRYING OF HANDGUN
-) M211212 UNLAWFUL CARRYING OF A HANDGUN
-) BY A CONVICTED FELON
-) M211215 PWID MARIJUANA

TO: David Pascoe, Solicitor

NOW COMES the Defendant, by and thought the undersigned
counsel of record, pursuant to Rule 5 of the South Carolina Rules
of Criminal Procedure, and moves prosecution to permit the
Defendant to inspect and copy or photograph, within thirty (30)
days of service of this motion and at least within ten (10) days
prior to trial, including, but not limited to, the following,
with the express provision that the duty of disclosure be a
continuing one in the event that any such materials come into
existence or become available after initial disclosures:

A. Any written or recorded statements by the Defendant,
or copies thereof, within the possession, custody, or control of
the prosecution, the existence of which is known, or by the

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CLERK
COURT
ORANGEBURG

exercise of due diligence may become known, to the attorney for the prosecution;

B. The substance of any oral statement which the prosecution intends to offer into evidence at the trial made by the Defendant, whether before or after arrest, in response to interrogation by any person then known to the Defendant to be a prosecution agent;

C. A Copy of the Defendant's prior criminal record, if any, as is within the possession, custody, or control of the prosecution, the existence of which is known, or by the exercise by due diligence may become known, to the attorney for the prosecution;

D. All books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody, or control of the prosecution, and which are material to the defense, or are intended for use by the prosecution as evidence in chief at the trial, or were obtained from or belong to the Defendant;

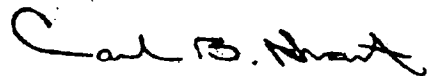
E. All results or reports of physical or mental examinations, and scientific tests or experiments, or copies thereof, which are within the possession, custody, or control of the prosecution, the existence which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution, and which are material to the preparation of the defense or are intended for use by the prosecution as evidence in chief at the trial; and

F. The statement of a witness or prospective prosecution witness, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for prosecution.

The Defendant further moves that compliance with the foregoing request be made within ten (10) day from the service of this motion, and upon failure of the prosecution to so comply, the Defendant will move before the Presiding Judge for an Order prohibited the prosecution for introducing at trial evidence not disclosed, and if the foregoing id denied, an Order permitting the discovery and inspection requested, or a continuance of the trial, or such Order as the Court in its discretion deems just under the circumstances.

For purposes of this Motion, the Defendant asserts that any item requested in Paragraphs (a), (b), (c), (d), (e), and (f) above is material to the preparation of the defense in this case.

Respectfully submitted



Carl B. Grant
Attorney for Defendant

Orangeburg, South Carolina

March 9, 2009

(a) Any and all promises, rewards and inducements made to all witnesses herein, whether or not they have testified before any State or Federal Grand jury, or other investigative agency, and regardless of whether they will testify at the trial herein.

(b) Any offers or grants immunity in this case to any witness from loss of property, fine, forfeiture, prosecution, or punishment in this or any other case, related or otherwise.

(c) Whether any witness called before the Grand Jury or who has or will give a testimony to any investigative agency or at trial has ever been psychiatrically hospitalized or undergone psychiatric examination or care, if so, a list of names and addresses of the psychiatrists, hospitals and copies of all relevant records and reports.

(d) Any "inconsistent" statements of a particular witness of between witnesses.

(e) Any and all "rap" sheets or histories of arrest or conviction of any unindicted co-conspirator or State witness.

3. In addition, Defendant requests copies of any and all memoranda, reports and correspondence to and from the various law enforcement agencies regarding the investigation herein.

4. Defendant also contends that he/she is entitled to any statement of admissions by a witness for or on behalf of the State with respect to the witness' memory of loss thereof.

5. Defendant also contends that this Court should specifically direct the Government in the spirit of fairness and equity, seek and produce for Defendant the documents, letters, records, and other items sought, irrespective of the State's determination of whether a witness' statement or a particular letter of exhibit can "help" defendant. The Defendant and his/her defense and the documents relevant thereto and necessary in support of same.

6. To the extent that specifically is required to demonstrate the materiality of the requested information, see United States vs. Agurs, 427 US 97 (1976), the Defendant submits that this requirement is satisfied in this motion.

7. To disclose to counsel for the defense any and all evidence in the actual or constructive possession of the State which is of a favorable character for the Defendant in

this due process clause of the Fourteenth Amendment to the United States Constitution, including but not limited to, the following materials:

(a) Any oral, written or recorded statements made by any person to the police, to the Solicitor, or the Grand Jury which tends to establish the Defendant's innocence, to mitigate punishment or impeach, discredit or contradict the testimony of any witness whom the State will call at the trial of the cause. Brady vs. Maryland, 373 US 83 S. Ct. 1194 (1963).

(b) Any police investigations report made to the police which tends to establish the Defendant's innocence, to mitigate punishment, or to impeach, discredit, or contradict the testimony of any witness whom the State will call at trial of the cause. Giles vs. Maryland, 386 US 66, 87 S. Ct. 793 (1967).

(c) The names and addresses of witness who might establish the Defendant's innocence to mitigate punishment, or to impeach, discredit, or contradict the testimony of any witness whom the State will call at the trial of the cause.

(d) Any information or material tends to establish the Defendant's innocence, to mitigate punishment or to impeach, discredit or contradict the testimony of any witness whom the State will call at the trial of the cause. Ashley vs. Texas, 319 F. 2d 80 (5th Cir.), cert denied. 375 UD 931, 84 S. Ct. 331 (1963).

WHEREFORE, the undersigned prays for such Order as is just and proper.

By: Carl B. Grant

Carl B. Grant
Attorney for Defendant
Post Office Box 1203
Orangeburg, SC 29116
(803) 536-4011

Orangeburg, South Carolina

March 9, 2009

The Law Firm of Carl B. Grant, P.A.

ATTORNEY AT LAW

Member:
South Carolina Bar
Maryland Bar

Columbia Office:
5509 N. Main Street
P.O. Box 3547
Columbia, SC 29230
(803) 754-7411
(803) 754-4593 (FAX)

960 Doyle Street
P.O. Box 1203
Orangeburg, SC 29116-1203
(803) 536-4011
(803) 536-4163 (FAX)

Areas of Practice:
Personal Injury
Criminal Defense
Workers' Compensation
Family Law
Medical Malpractice
Contracts
Military Law
General Law

March 9, 2009

Orangeburg County Clerk of Court
Attention: Clerk of Court
Post Office Box 9000
Orangeburg, South Carolina 29116

RE: My Client: John Allen Randolph, Jr.
Warrant No(s): M211202 PWID METHYLENEDIOXYMETHAMPHETAMINE
M211203 TRAFFICKING CRACK COCAINE IN PROXIMITY
SCHOOL
M211205 PWID METHYLENEDIOXYMETHAMPHETAMINE
M211206 PWID MARIJUANA WITHIN PROXIMITY OF A
SCHOOL
M211207 TRAFFICKING COCAINE WITHIN PROXIMITY OF
A SCHOOL
M211208 TRAFFICKING IN ICE, CRANK OR CRACK- 10g OR
MORE, BUT LESS THAN 28g- 1ST OFFENSE
M211209 TRAFFICKING CRACK COCAINE, 100g OR MORE
BUT LESS THAN 200g
M211210 UNLAWFUL CARRYING OF HANDGUN
M211212 UNLAWFUL POSSESSION OF A HANDGUN BY
CONVICTED FELON
M211215 PWID MARIJUANA

Dear Clerk:

I have enclosed the original and two (2) copies of the Rule 5 Discovery and Brady Motions as they pertain to John Randolph Jr. Please file these original documents and return the certified true copies to my Orangeburg office, I have also enclosed a self addressed, stamped envelope for your convenience.

Thank you for your cooperation in this matter. With kind regards, I am

Sincerely,

Carl B. Grant
Carl B. Grant
Attorney at Law

CBG/cj
enclosures

FILED
MAR 11 P 1:09
CLERK OF COURT
ORANGEBURG, SC

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